

Board Members

Joe Neves, District 1
Richard Valle, District 2 - Chairman
Doug Verboon, District 3 – Vice-Chairman
Rusty Robinson, District 4
Richard Fagundes, District 5



Staff

Kyria Martinez, County Administrative Officer
Diane Freeman, County Counsel
Catherine Venturella, Clerk of the Board

Board of Supervisors Regular Meeting Agenda

Date: Tuesday, December 5, 2023

Time: 9:00 a.m.

Place: MULTI PURPOSE ROOM, Administration Building 1, Kings County Government Center
1400 W. Lacey Boulevard, Hanford, California 93230

☎ (559) 852-2362 ❖ bosquestions@co.kings.ca.us ❖ website: <https://www.countyofkings.com>

The meeting can be attended on the Internet by clicking this link:

<https://countyofkings.webex.com/countyofkings/j.php?MTID=m462472b35a96d99589ca6ca668fc89f0>

or by sending an email to bosquestions@co.kings.ca.us on the morning of the meeting for an automated email response with the WebEx meeting link information. Members of the public attending via WebEx will have the opportunity to provide public comment during the meeting. Remote WebEx participation for members of the public is provided for convenience only. In the event that the WebEx connection malfunctions or becomes unavailable for any reason, the Board of Supervisors reserves the right to conduct the meeting without remote access.*WebEx will be available for access at 8:50 a.m.*

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- I. 9:00 AM **CALL TO ORDER**
ROLL CALL – Clerk of the Board
INVOCATION – Pastor Arthur Fox – New Hope Orthodox Presbyterian Church
PLEDGE OF ALLEGIANCE



- II. EMPLOYEE RECOGNITION**
Administration - Kyria Martinez
Human Services Agency – Wendy Osikafo
Presentation to the Employee of the 3rd Quarter of 2023.

- III. UNSCHEDULED APPEARANCES**
Any person may directly address the Board at this time on any item on the agenda, or on any other items of interest to the public, that is within the subject matter jurisdiction of the Board. Two (2) minutes are allowed for each item.

- IV. APPROVAL OF MINUTES**
A. Report out of Closed Session from the regular meeting for November 28, 2023.
B. Approval of the minutes from the regular meeting for November 28, 2023.

- V. CONSENT CALENDAR**
- A. County Counsel:**
1. Consider appointing Laura Brown to the Tulare Lake Resource Conservation District Board to fill the seat currently held by Dennis Tristao for the remainder of his term of office, which will end at noon of Friday, November 29, 2024.
- B. Department of Finance:**
1. Consider adopting a Resolution delegating investment authority to the Kings County Director of Finance.
 2. Consider approving the 2024 Director of Finance’s Statement of Investment Policy.
- C. Fire Department:**
1. Consider authorizing the Fire Chief to accept the Narcan (Naloxone) donation from the Tachi Palace Casino Resort.
- D. Sheriff’s Office:**
1. Consider approving the Agreement with Pigeonly, Incorporated for inmate mail services.
 2. a. Consider adopting a Resolution authorizing the participation in the Boating Safety and Enforcement Financial Aid Program operated by the California Department of Parks and Recreation, Division of Boating and Waterways for the performance period of July 1, 2024 through June 30, 2025;
b. Authorize the Sheriff to sign the application for the Boating Safety and Enforcement Financial Aid Program operated by the California Department of Parks and Recreation, Division of Boating and Waterways.
- E. Administration:**
1. Consider adopting a Resolution approving the financing and the issuance of up to \$1,000,000,000 in qualified 501(c)(3) bonds for health care facilities by the California Public Finance Authority for Sharp HealthCare.



VI. REGULAR AGENDA ITEMS

A. Information Technology Department – John Devlin/Chris Verhaege

1. Consider approving the Agreement with Palo Alto for the Cortex XDR extended detection and response antivirus solution for the term of one year, effective upon execution by all parties.

B. Public Works Department – Dominic Tyburski/Mitchel Cabrera

1. Consider approving the Agreement with O'Dell Engineering, Incorporated to prepare Plans, Specifications, and Estimate package for County roadway improvements.

C. Administration – Kyria Martinez/Matthew Boyett

1.
 - a. Consider approving the Purchase and Sale Agreement with the State of California for real property located at 501 East King Street in Avenal, California;
 - b. Approve the Grant Deed with the State of California granting the County the rights, title, and interest in real property located at 501 East King Street in Avenal, California;
 - c. Approve the Termination of Joint Occupancy Agreement with the State of California for real property located at 501 East King Street in Avenal, California.
2. Consider adopting a Resolution permanently establishing a change in hours to the public for County departments to allow public contact/appointment times between 8:00 a.m. and 5:00 p.m. Mondays through Thursdays and 8:00 a.m. to noon on Fridays effective December 25, 2023.

VII. STUDY SESSION

A. Human Resources – Carolyn Leist

1.
 - a. Receive an Overview of the VantageCare Retirement Health Savings Program;
 - b. Direct staff as necessary to negotiate with bargaining groups interested in the Program.

VIII. BOARD MEMBER ANNOUNCEMENTS OR REPORTS

On their own initiative, Board Members may make a brief announcement or a brief report on their own activities. They may ask questions for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda (Gov. Code Section 54954.2a).

- ◆ Board Correspondence
- ◆ Upcoming Events
- ◆ Information on Future Agenda Items

IX. CLOSED SESSION

◆ **Conference with Labor Negotiator: [Govt. Code Section 54957.6]**

Negotiators: Kyria Martinez, Carolyn Leist, Che Johnson of Liebert Cassidy Whitmore

- General Unit - CLOCEA
- Supervisor's Unit - CLOCEA
- Blue Collar - SEIU
- Detention Deputy's Association
- Firefighter's Association
- Deputy Sheriff's Association
- Probation Officer's Association
- Prosecutor's Association
- Unrepresented Management

◆ **Personnel Matter: [Govt Code Section 54957]**

Public Employee Appointment: Fire Chief



X. ADJOURNMENT

The next regularly scheduled meeting will be held on Tuesday, December 12, 2023 at 9:00 a.m. in the Multi Purpose Room, entrance is located across the hall from Board Chambers.

The December 26, 2023 meeting has been canceled due to the holiday closure of county offices. County offices will be closed on Thursday, December 21 at 5 p.m. and will reopen Tuesday, January 2, 2024 at 8:00 a.m..

XI. 11:00 AM CALIFORNIA PUBLIC FINANCE AUTHORITY REGULAR MEETING

FUTURE MEETINGS AND EVENTS

December 12	9:00 AM	Regular Meeting
December 12	2:00 PM	Board of Equalization Regular Meeting
December 19	9:00 AM	Regular Meeting
December 26	--	Regular Meeting Canceled/County Offices Closed
January 2, 2024	9:00 AM	Regular Meeting – Board Reorganization

Agenda backup information and any public records provided to the Board after the posting of the agenda will be available for the public to review at the Board of Supervisors office, 1400 W. Lacey Blvd, Hanford, for the meeting date listed on this agenda.



COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 852-2362
Catherine Venturella, Clerk of the Board of Supervisors

AGENDA ITEM December 5, 2023

SUBMITTED BY: Administration – Kyria Martinez
Human Services Agency – Wendy Osikafo

SUBJECT: PRESENTATION TO THE EMPLOYEE OF THE 3RD QUARTER OF 2023

SUMMARY:

Overview:

The Board approved the formation of an Employee Recognition Committee in 1990. Every quarter, employees are nominated based on their outstanding performance and achievement in various departments. The nominations are reviewed and voted upon by the Committee. The Committee respectfully requests that the Board recognize and award the Employee of the Quarter with the presentation of a certificate and check in the amount approved by the Board.

Recommendation:

Presentation to the Employee of the 3rd Quarter of 2023.

Fiscal Impact:

The recognized employee will receive \$300, which will come from the General Fund in Budget Unit 111000.

BACKGROUND:

This quarter's Employee of the Quarter will be Amber Tsuchiura. Ms. Tsuchiura was hired with the County on November 5, 2018, and since that time has promoted within the Human Services Agency to her current position of Staff Support Specialist II.

Amber Tsuchiura has displayed exceptional leadership and work ethic during a transitional period for the Staff Support Unit in the Human Services Agency. Due to staff turnover, Ms. Tsuchiura was assigned a larger workload and the training of new Staff Support Specialists. This was during a time that she was also assigned a new Staff Support Manager. During this time period, she assisted in onboarding 146 employees, processed

(Cont'd)

BOARD ACTION:

APPROVED AS RECOMMENDED: _____ OTHER: _____

I hereby certify that the above order was passed and adopted
on _____, 2023.

CATHERINE VENTURELLA, Clerk of the Board

By _____, Deputy.

Agenda Item

PRESENTATION TO THE EMPLOYEE OF THE 3RD QUARTER OF 2023

December 5, 2023

Page 2 of 2

and tracked over 716 evaluations, and submitted 260 position requisitions. Ms. Tsuchiura did this by assuming a “lead” role in training new employees and making herself available to them in a way that made her peers thrive. Ms. Tsuchiura understands the Human Services Agency’s vision of “Together We Serve” and has selflessly sacrificed her time to ensure the division was properly trained and that her peers felt as though they were part of a team.

Ms. Tsuchiura worked long and stressful hours to meet the deadlines of the department while displaying loyalty, dedication and commitment to achieving organizational success. Ms. Tsuchiura is a dedicated employee who is valued by her office. For all these reasons Ms. Tsuchiura has been chosen as Employee of the 3rd Quarter of 2023.

Board Members

Joe Neves, District 1
Richard Valle, District 2 - Chairman
Doug Verboon, District 3 – Vice-Chairman
Rusty Robinson, District 4
Richard Fagundes, District 5



Staff

Kyria Martinez, County Administrative Officer
Diane Freeman, County Counsel
Catherine Venturella, Clerk of the Board

Board of Supervisors

Regular Meeting Action Summary

Date: Tuesday, November 28, 2023
Time: 9:00 a.m.
Place: MULTI PURPOSE ROOM, Administration Building 1, Kings County Government Center
1400 W. Lacey Boulevard, Hanford, California 93230

☎ (559) 852-2362 ❖ bosquestions@co.kings.ca.us ❖ website: <https://www.countyofkings.com>

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- I. 9:00 AM **CALL TO ORDER**
 - ROLL CALL – Clerk of the Board
 - INVOCATION – Pastor Arthur Fox – New Hope Orthodox Presbyterian Church
 - PLEDGE OF ALLEGIANCE
 - ALL MEMBERS PRESENT



II. UNSCHEDULED APPEARANCES

Any person may directly address the Board at this time on any item on the agenda, or on any other items of interest to the public, that is within the subject matter jurisdiction of the Board. Two (2) minutes are allowed for each item. None

III. APPROVAL OF MINUTES

A. Approval of the minutes from the regular meeting for November 21, 2023.

ACTION: APPROVED AS AMENDED (RR, DV, JN, RF-Aye, RV-Abstain)

IV. CONSENT CALENDAR

A. Behavioral Health Department:

1. Consider approving the amendment to the Agreement with Mental Health Services Oversight and Accountability Commission for the Mental Health Student Services Act Grant effective upon execution through December 31, 2026. **[AGMT 22-055.1]**

B. Human Services Agency:

1. Consider approving the first amendment to the Agreement with Plexus Global Limited Liability Company for drug testing services effective December 1, 2023 through November 30, 2024. **[AGMT 22-203.1]**

C. Public Health Department:

1. Consider authorizing the advance step hire of Gelline Galgana as a Senior Dietitian at Salary Range 235.5, Step 5.

D. Public Works Department:

1.
 - a. Consider declaring 18 vehicles as surplus;
 - b. Authorize the sale of the surplus at public auction.

ACTION: APPROVED AS PRESENTED (RF, DV, JN, RR, RV-Aye)

V. REGULAR AGENDA ITEMS

A. Assessor/Clerk/Recorder – Kristine Lee/Susan Morris

1. Consider approving the Memorandum of Understanding with Los Angeles, Orange, Riverside and San Deigo Counties to provide electronic delivery of recordable documents through the Statewide Electronic Courier Universal Recording Environment software system. **[AGMT 23-202]**

ACTION: APPROVED AS PRESENTED (DV, RF, JN, RR, RV-Aye)

B. Fire Department – Bill Lynch/Abraham Valencia/German Ortiz

1.
 - a. Consider authorizing the Fire Department to accept the 2023 Emergency Management Performance Grant;
 - b. Adopt a Resolution designating the County Fire Chief, County Administrative Officer, or Assistant County Administrative Officer as authorized agents to execute all grant documents. **[RESO 23-081]**

ACTION: APPROVED AS PRESENTED (RR, DV, JN, RF, RV-Aye)

2.
 - a. Consider authorizing the Fire Department to accept the 2023 Homeland Security Grant;
 - b. Adopt a Resolution designating the County Fire Chief, County Administrative Officer, or Assistant County Administrative Officer as authorized agents to execute all grant documents. **[RESO 23-082]**

ACTION: APPROVED AS PRESENTED (DV, RR, JN, RF, RV-Aye)



C. Human Resources – Carolyn Leist

1. Consider approving the Agreement with Tripepi Smith Talent Solutions for Countywide Professional Recruitment Services. **[AGMT 23-203]**

ITEM WAS PULLED BY THE DEPARTMENT AND WILL BE BROUGHT BACK ON A FUTURE AGENDA

D. Public Health Department – Rose Mary Rahn/Heather Silva

1. Consider adopting a Resolution proclaiming Friday, December 1, 2023, as World AIDS Day in Kings County. **[RESO 23-083]**

ACTION: APPROVED AS PRESENTED (RF, DV, JN, RR, RV-Aye)

E. Public Works Department – Dominic Tyburski/Mitchel Cabrera

1. Consider approving the Memorandum of Understanding with the City of Avenal to provide assistance with the Avenal Cut-Off Roadway Improvements Project. **[AGMT 23-204]**

ACTION: APPROVED AS PRESENTED (DV, RF, JN, RR, RV-Aye)

F. Administration – Kyria Martinez

Kings County Office of Education – Genevieve Almanzar

1. Consider accepting the 2023-2024 Final Williams Report, the “State of the Schools” annual report, for Kings County.

ACTION: APPROVED AS PRESENTED (DV, RF, JN, RR, RV-Aye)

G. Administration – Kyria Martinez/Megan Vega

1.
 - a. Consider approving the Agreement with Matthew Andrews to replace Jamil Nushwat’s Conflict Indigent Defense effective December 1, 2023 through June 30, 2024; **[AGMT 23-205]**
 - b. Approve the Agreement with John Umscheid to replace Matthew Andrew’s Misdemeanor Indigent Defense Contract effective December 1, 2023 through June 30, 2024. **[AGMT 23-206]**

ACTION: APPROVED AS PRESENTED (DV, RR, JN, RF, RV-Aye)

2. Consider approving health insurance premium holidays for active Kings County employees for pay period 24 (December 1, 2023) and pay period 25 (December 15, 2023).

ACTION: APPROVED AS PRESENTED (RF, DV, JN, RR, RV-Aye)

VI. STUDY SESSION

A. Administration – Kyria Martinez

1. Receive an overview of Kings County workforce efforts on recruitment and retention.

THE BOARD RECEIVED AN OVERVIEW FROM STAFF AND TOOK QUESTIONS AND INFORMATION FROM THE AUDIENCE ON THE TOPIC AND NO OFFICIAL ACTION WAS TAKEN.

VII. BOARD MEMBER ANNOUNCEMENTS OR REPORTS

On their own initiative, Board Members may make a brief announcement or a brief report on their own activities. They may ask questions for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda (Gov. Code Section 54954.2a).

Supervisor Neves stated that he cooked breakfast for the quarterback club on Thanksgiving morning, attended the Lemoore tree raising ceremony and Sarah Mooney Museum event, donated blood at the Central California Blood Center and attended the West Hills College rebranding group meeting.

Supervisor Fagundes stated that he attended the Lemoore tree raising ceremony and attended the Hanford Christmas Parade and attended meetings with staff this past week.



Supervisor Verboon stated that he had a good Thanksgiving with his family and wrapped up walnut harvest season.

Supervisor Robinson stated that he met with the Hanford Mayor and Vice-Mayor to discuss homelessness and had a good Thanksgiving with his family.

Supervisor Valle thanked Supervisor Verboon for stepping in to chair the meetings in November that he missed due to his wedding at Graceland and for Operation Gobble. He stated that this is the 22nd year of Operation Gobble and thanked everyone who assisted with the event and to the sponsors who made it possible to feed 1,400 families in Kings County.

- ◆ **Board Correspondence: Kyria Martinez stated that the Board received the Monthly Fund Balance Report from the Department of Finance dated November 15, 2023. The Board received the Treasurer's Report of Cash and Investments from the Department of Finance dated September 20, 2023. The Board received email correspondence from SoCalGas regarding Winter Messaging information dated November 21, 2023. The Board received correspondence from the City of Hanford Utility Division regarding a Notice of Public Hearing on proposed utility increases which will take place on January 16, 2024. The Board received the Riverside County Assessor-Clerk Recorder Annual Report on November 27, 2023.**
- ◆ **Upcoming Events: Kyria Martinez stated that on Friday, December 1, 2023 from 9:00 a.m. - 10:00 a.m. West Hills College in Lemoore will have a ground breaking for the Visual Arts and Applied Sciences building. Attendees can park near Golden Eagle Arena in parking lot A. Registration for the event can be done online with West Hills College Lemoore. The Wine & Chocolate Tasting event will take place in Downtown Hanford on December 1, 2023 from 6:00 p.m. - 9:00 p.m. Tickets are \$45 at the door. The Kings County Library will host its 14th Annual Winter Open House on Wednesday, December 6, 2023 from 4:00 p.m. - 6:00 p.m. at the Hanford Branch Library. There will be raffles, refreshments, face painting, model train display, and a visit from Santa. Corcoran will host its 104th Annual Christmas Parade on December 7, 2023 in Downtown Corcoran which will include a lighting ceremony. Adventist Health will be doing their Light Up a Life Tree Lighting Ceremony on December 12, 2023 at 6:00 p.m. wherein the purchase of memorial ornaments of loved ones that have passed can be purchased to support the Hospice Patience Assistance Fund which helps patients and their families during a difficult time. Memorial ornaments can be purchased by December 4, 2023. Kings County Child Support Services is organizing their Slipper Sock Drive and collecting slipper socks to donate to senior citizens in Kings County. Donations can be dropped off until December 14, 2023 at Child Support Services, Job Training Office, or Kings Community Action Organization.**
- ◆ **Information on Future Agenda Items: Kyria Martinez stated that the following items would be on a future agenda: Administration - Presentation to Employee of the 3rd Quarter, CalPFA approving the issuance of qualified 501c3 bonds for healthcare facilities, Purchase of Avenal Courthouse; County Counsel - Appointment to fill vacancy of director to the Tulare Lake Resource Conservation District; Department of Finance - Delegation of Investment Authority to the Director of Finance, Director of Finance's 2024 Statement of Investment Policy; Fire Department - donation of Narcan from the Tachi Palace Casino Resort; Human Resources Department - Study session regarding the Vantagecare Retirement Health Savings Program; Information Technology Department - Service agreement for Cortex by Palo Alto; Public Works Department - Roads Equipment Purchase, Highway Safety Improvement Program – Cycle 11 Grant- Roadway Project; Sheriff's Office - Agreement with Pigeonly Incorporated, Resolution with the California Department of Parks and Recreation.**



VIII. CLOSED SESSION

- ◆ **Conference with Labor Negotiator: [Govt. Code Section 54957.6]**
Negotiators: Kyria Martinez, Carolyn Leist, Che Johnson of Liebert Cassidy Whitmore
 - General Unit - CLOCEA
 - Supervisor’s Unit - CLOCEA
 - Blue Collar - SEIU
 - Detention Deputy’s Association
 - Firefighter’s Association
 - Deputy Sheriff’s Association
 - Probation Officer’s Association
 - Prosecutor’s Association
 - Unrepresented Management

IX. ADJOURNMENT

The next special meeting will be held on Monday, December 4, 2023 at 9:00 a.m. in the Multi Purpose Room, entrance is located across the hall from Board Chambers.
The next regularly scheduled meeting will be held on Tuesday, December 5, 2023 at 9:00 a.m. in the Multi Purpose Room, entrance is located across the hall from Board Chambers.
The December 26, 2023 meeting has been canceled due to the holiday closure of county offices. County offices will be closed on Thursday, December 21 at 5 p.m. and will reopen Tuesday, January 2, 2024 at 8:00 a.m..

FUTURE MEETINGS AND EVENTS		
December 4	9:00 AM	Special Meeting
December 5	9:00 AM	Regular Meeting
December 12	9:00 AM	Regular Meeting
December 12	2:00 PM	Board of Equalization Regular Meeting
December 19	9:00 AM	Regular Meeting
December 26	--	Regular Meeting Canceled/County Offices Closed
January 2, 2024	9:00 AM	Regular Meeting

Agenda backup information and any public records provided to the Board after the posting of the agenda will be available for the public to review at the Board of Supervisors office, 1400 W. Lacey Blvd, Hanford, for the meeting date listed on this agenda.



COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 852-2362
Catherine Venturella, Clerk of the Board of Supervisors

AGENDA ITEM December 5, 2023

SUBMITTED BY: County Counsel – Diane Freeman

SUBJECT: APPOINTMENT TO FILL VACANCY OF DIRECTOR TO THE TULARE LAKE RESOURCE CONSERVATION DISTRICT

SUMMARY:

Overview:

The Tulare Lake Resource Conservation District has requested the Kings County Board of Supervisors appoint one Director to its District Board to fill a vacant board seat for the remainder of the term of office pursuant to the provisions of Public Resources Code sections 9316 and 931.

Recommendation:

Appoint Laura Brown to fill the board seat currently held by Dennis Tristao for the remainder of his term of office, which will end at noon of Friday, November 29, 2024.

Fiscal Impact:

None.

BACKGROUND:

Pursuant to Public Resources Code Section 931, as an alternative to the election of directors, the board of directors may, by a resolution presented to the Board of Supervisors (“Board”), request the Board to appoint directors. The Tulare Lake Resource Conservation District (“District”) has notified the Board that Director Dennis Tristao has resigned from his seat on the District’s governing board and will not seek an additional term in office. Pursuant to Public Resources Code Section 9316, in the case of a vacancy in the office of directors, the vacancy shall be filled by appointment for the unexpired term by the Board. Accordingly, the District has requested that the Board appoint Laura Brown to fill the vacant seat.

BOARD ACTION :

APPROVED AS RECOMMENDED: _____ OTHER: _____

I hereby certify that the above order was passed and adopted
on _____, 2023.

CATHERINE VENTURELLA, Clerk to the Board

By _____, Deputy.



COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 852-2362
Catherine Venturella, Clerk of the Board of Supervisors

AGENDA ITEM December 5, 2023

SUBMITTED BY: Department of Finance – Erik Ureña

SUBJECT: DELEGATION OF INVESTMENT AUTHORITY TO THE KINGS COUNTY
DIRECTOR OF FINANCE

SUMMARY:

Overview:

Annually, the Board of Supervisors is requested to consider the delegation of investment authority to the Kings County Director of Finance. Submitted for the Board’s action is a resolution delegating investment authority to the Kings County Director of Finance for the period of January 1, 2024, continuing through December 31, 2024.

Recommendation:

Adopt a Resolution delegating investment authority to the Kings County Director of Finance.

Fiscal Impact:

None.

BACKGROUND:

Pursuant to Section 53607 of the California Government Code, the Board has annually delegated certain investment authority to the County’s Director of Finance for a one-year period. Kings County Ordinance No. 557, adopted January 14, 1997, allows for the annual delegation to be achieved through a Board resolution. Board Resolution 22-078 delegated investment authority for the 2023 calendar year, which expires December 31, 2023. Staff respectfully requests the Board consider adopting a new resolution delegating investment authority to the Kings County Director of Finance for Calendar Year 2024.

Resolution has been reviewed and approved by County Counsel as to form.

BOARD ACTION :

APPROVED AS RECOMMENDED: _____ OTHER: _____

I hereby certify that the above order was passed and adopted
on _____, 2023.

CATHERINE VENTURELLA, Clerk to the Board

By _____, Deputy.

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF KINGS, STATE OF CALIFORNIA

IN THE MATTER OF DELEGATING
INVESTMENT AUTHORITY TO THE
KINGS COUNTY DIRECTOR OF FINANCE UNDER
SECTION 53607 OF THE CALIFORNIA
GOVERNMENT CODE _____ /

RESOLUTION NO. _____

WHEREAS , on January 14, 1997, the Board of Supervisors adopted Kings County Ordinance No. 557, pursuant to the terms of which investment authority was granted to the Kings County Treasurer for a one-year period to end in January 1998 ;

WHEREAS, Ordinance No. 557 provides that all future delegations of investment authority by the Board shall be by Board resolution; and

WHEREAS, the Board now wishes to delegate investment authority to the Kings County Director of Finance for the 2024 calendar year.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. Delegation of Investment Authority. Pursuant to Government Code section 53607 and Kings County Ordinance No. 557, the Kings County Director of Finance is hereby delegated the authority to continue to invest or reinvest the funds of the County and the funds of other depositors in the County Treasury commencing on January 1, 2024, and continuing through December 31, 2024.

2. The Kings County Director of Finance shall assume full responsibility for said transactions until such time as the Board of Supervisors revokes this delegation of authority or until its expiration on December 31, 2024, unless renewed on or before that date by the Board of Supervisors.

The foregoing resolution was adopted upon motion by Supervisor _____, seconded by Supervisor _____, at a regular meeting held on the 5TH day of December 2023, by the following vote:

AYES:

NOES:

ABSENT:

Richard Valle, Chairperson of the
Board of Supervisors,
County of Kings

WITNESS my hand and seal of said Board of Supervisors this 5th day of December, 2023.

CATHERINE VENTURELLA, Clerk to the
Board of Supervisors



COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 852-2362
Catherine Venturella, Clerk of the Board of Supervisors

AGENDA ITEM December 5, 2023

SUBMITTED BY: Department of Finance – Erik Ureña

SUBJECT: DIRECTOR OF FINANCE’S 2024 STATEMENT OF INVESTMENT POLICY

SUMMARY:

Overview:

In accordance with Government Code sections 27133 and 53646, the Director of Finance may annually render to the Board of Supervisors and to the County Treasury Oversight Committee a statement of investment policy, which the Board shall review and approve at a public meeting. Any change in the Policy shall also be reviewed and approved by the Board at a public meeting.

Recommendation:

Approve the 2024 Director of Finance’s Statement of Investment Policy.

Fiscal Impact:

None.

Advisory Board Statement:

The County Treasury Oversight Committee reviewed and approved the 2024 Director of Finance’s Statement of Investment Policy on November 6, 2023.

Pursuant to Government Code section 27132 the Committee members are: Kyria Martinez, Board appointed member, Erik Ureña, Director of Finance, Jamie Dial, representative for the Kings County Superintendent of Schools, Julie Fagundes, representative for the school districts, Heather Corder, representative for the special districts, vacant, representative for the public, and Tammy Phelps, Assistant Director of Finance - Treasury.

(Cont’d.)

BOARD ACTION :

APPROVED AS RECOMMENDED: _____ OTHER: _____

I hereby certify that the above order was passed and adopted
on _____, 2023

CATHERINE VENTURELLA, Clerk to the Board

By _____, Deputy.

Agenda Item

DIRECTOR OF FINANCE'S 2024 STATEMENT OF INVESTMENT POLICY

December 5, 2023

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BACKGROUND:

The 2024 Director of Finance's Statement of Investment Policy has strikethroughs for omissions and bold for additions. The changes are as follows:

1. Section VII, B. RESTRICTIONS ON AUTHORIZED INVESTMENTS – add “**No funds shall be invested in securities with a forward settlement date exceeding 45 days from the time of investment.**” (Amendment to California Government Code 53601)
2. Section VIII, B. MAXIMUM MATURITIES – change “No investment shall be made in any security... which at the time of ~~investment~~ **settlement** has a term remaining to maturity in excess of five years...” (Amendment to California Government Code 53601)
3. Section IX, A. METHODS – change “The report will be provided within ~~30~~ **45** days following the end of the quarter covered by the report...” (Amendment to California Government Code 53646(b)(1))
4. SCHEDULE 1 – STATEMENT OF AUTHORIZED FIRMS, B. – delete “~~CalTRUST~~” (CalTRUST is listed under firms designated for the purchase of money market mutual funds, however CalTRUST is not a firm, it is a Public Agency.)
5. Schedule 2 -INVESTMENT PARAMETERS – Corporate Notes – change “Max \$~~15~~ **50**mm any one name” (California Government Code allows 10% of the portfolio in any one name, which would be approximately 75mm. The \$15mm limit has not been updated/increased in the past nineteen years.)
6. Schedule 2 – INVESTMENT PARAMETERS – add “**California Asset Management Program – CAMP, 15% Max., Max. Transactions allowed by CAMP Administration, overnight liquidity, N/A**” (A maximum percentage needs to be stated in the Policy.)

COUNTY OF KINGS

DIRECTOR OF FINANCE'S

STATEMENT OF

INVESTMENT POLICY

JANUARY 1, 2024

Erik Ureña, CPA
Director of Finance

Approved by CTOC November 6, 2023
Approved by BOS December 5, 2023

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I. AUTHORITY

Kings County Ordinance No.557, adopted on January 14, 1997, as an urgency ordinance, delegated to the County Director of Finance the authority to continue to invest or reinvest the funds of the County and the funds of other depositors in the County treasury, pursuant to Section 53600 et seq., inclusive of Section 53684, of the California Government Code. The County Director of Finance, as agent of the county, trustee, and fiduciary, assumes full responsibility for the investment program. The Board of Supervisors shall annually review the Director of Finance's performance and may annually renew this delegation of authority for a one-year period pursuant to Government Code 53607. The Board of Supervisors may also revoke the investment authority by County ordinance.

II. POLICY STATEMENT

Annually, the County Director of Finance shall prepare an Investment Policy, pursuant to G.C. 27133 and G.C. 53646, that will be reviewed by the County Treasury Oversight Committee and rendered for approval to the Board of Supervisors and local agencies.

The purpose of this Statement of Investment Policy (Policy) is to establish cash management and investment guidelines for the County Director of Finance, who is responsible for the stewardship of the Kings County Investment Pool. Each transaction and the entire portfolio must comply with California Government Code Section 53601 et seq., Section 53635 et seq., and this policy. All portfolio activities will be judged by the Standard of Prudence and ranking of investment objectives. Those activities which violate its spirit and intent will be deemed to be contrary to the policy.

III. POOLED INVESTMENT FUND OVERSIGHT COMMITTEE

In accordance with California Government Code Section 27130 et seq., the Board of Supervisors, in consultation with the County Director of Finance, has created a County Treasury Oversight Committee (Resolution No. 95-081, December 5, 1995) to allow local agency representatives participation in the policies that guide the investment of depositor funds. The primary responsibilities of the committee include: (a) to review and monitor the County Director of Finance's Statement of Investment Policy, (b) to cause an annual audit to be conducted to determine the County Treasury's compliance, and (c) to establish criteria for depositor withdrawal of funds for the purpose of investing or depositing outside the County Treasury pool. The meeting of the Oversight Committee shall be open to the public and subject to the Ralph M. Brown Act.

A member of the Oversight Committee may not be employed by an entity that has contributed to the campaign for any member of a legislative body of any local agency that has deposited funds into the county treasury, in the previous three years or during the period that the employee is a member of the committee. While serving on the Oversight Committee, a member may not directly or indirectly raise money for any member of a legislative body of any local agency that has deposited funds into the county treasury. Finally, a member may not secure employment with, or be employed by, bond underwriters, bond counsel, security brokerages or dealers, or a financial

services firms, with whom the Director of Finance is doing business during the period that the person is a member of the committee or for one year after leaving the committee.

The Oversight Committee is not allowed to direct individual investment decisions, select individual investment advisors, brokers, or dealers, or impinge on the day-to-day operations of the County treasury and investment operations.

IV. INVESTMENT OBJECTIVES

The Pooled Investment Fund shall be prudently invested in order to earn a reasonable return, while awaiting application for governmental purposes. The specific objectives for the Pooled Investment Fund are ranked in order of importance.

A. SAFETY OF PRINCIPAL - The preservation of principal is the primary objective. Each transaction shall seek to ensure that capital losses are avoided, whether they are from securities default or erosion of market value. The objective will be to mitigate credit risk and interest rate risk.

1. Credit Risk is the risk of loss due to the failure of the security issuer or backer. Credit risk is mitigated by: (a) limiting investments to the safest types of securities; (b) pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisors with which the Treasury will do business; and (c) diversifying the investment portfolio so that potential losses on individual securities will be minimized.

2. Interest Rate Risk is the risk that the market value of securities in the portfolio will fall due to changes in general interest rates. Interest rate risk is mitigated by: (a) structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity, and (b) by investing operating funds primarily in shorter-term securities.

B. LIQUIDITY - As a second objective, the Pooled Investment Fund should remain sufficiently flexible to enable the County Director of Finance to meet all operating requirements which may be reasonably anticipated in any depositor's fund. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands (static liquidity). No more than 35% of the portfolio may be invested in securities maturing in three to five years and during peak tax collection no more than 30%. Percent restrictions shall be applicable only for the date of purchase. Any future percent deviations due to cash flow demands reducing the total investment portfolio shall not be considered out of compliance. Furthermore, since all possible cash demands cannot be anticipated, the portfolio shall consist largely of securities with active secondary or resale markets (dynamic liquidity).

C. PUBLIC TRUST - In managing the Pooled Investment Fund, the County Director of Finance and the authorized investment staff should avoid any transactions that might impair public confidence in Kings County and the participating local agencies. Investments should be made with precision and care, considering the probable safety of the capital as well as the probable income to be derived.

D. MAXIMUM RATE OF RETURN - As the fourth objective, the Pooled investment Fund is designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of least importance compared to the safety and liquidity objectives described above. The core of investments are limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities can be sold prior to maturity for the following reasons: (1) a declining credit security to minimize loss of principal; (2) a security swap to improve the quality, yield, or target duration in the portfolio; (3) the liquidity needs of the portfolio require that the security be sold; (4) a call notification of a make-whole bond which, given unfavorable market conditions, could deteriorate the price of the bond on the redemption date, or (5) to realize a profit. If there is a realized loss of principal, the loss will first be allocated against the interest earned in the current quarter on the sold security. If the security's current interest is not sufficient to cover the loss, then the Director of Finance may allocate the loss against a profit realized from selling a security in the same quarter, and/or the total current and future portfolio interest earnings. In the event of an imminent loss of principal for which the security's interest would not be sufficient to cover the loss, the Director of Finance may withhold from the total current and future portfolio interest earnings to reserve against a future maximum anticipated actual loss.

V. STANDARD OF CARE

A. PRUDENCE - The County Director of Finance, as a trustee and therefore a fiduciary, is subject to the Prudent Investor Standard-which states, "When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, the county treasurer shall act with care, skill, prudence, and diligence under the circumstances then prevailing, specifically including, but not limited to, the general economic conditions and the anticipated needs of the county and other depositors, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the county and the other depositors." The standard of prudence to be used by investment staff shall be the "prudent person" standard, which provides, "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, liquidity needs, as well as the probable income to be derived." This standard shall be applied in the context of managing an overall portfolio.

When investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds the County Director of Finance shall act with the care, skill, prudence, and diligence to meet the aims of the investment objectives listed in order in Section IV., Investment Objectives. Investment staff acting in accordance with written procedures and this Policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this policy.

B. ETHICS AND CONFLICT OF INTEREST - Treasury staff involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. The investment staff shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. The investment staff shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the treasury.

Pursuant to Government Code Section 27133(d), the County Director of Finance, individual Treasury employees, or any member of the County Treasury Oversight Committee may not accept honoraria, gifts, and gratuities from advisors, brokers, dealers, bankers, or other persons with whom the County Treasury conducts business in an amount exceeding \$50.00.

C. DELEGATION OF AUTHORITY - Authority to manage the investment program is granted to the County Director of Finance by the Kings County Board of Supervisors. The moneys invested will be actively managed by the Director of Finance and his/her staff, who shall carry out established written procedures and internal controls for the operation of the investment program consistent with this Policy. No person may engage in an investment transaction except as provided under the terms of this Policy and the procedures established by the Director of Finance. The Director of Finance shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate staff. (See also Safekeeping and Custody, Internal Controls VI B. below). The authority to execute investment transactions for the portfolio shall be limited to the Assistant Director of Finance - Treasury, the Treasury Manager, and in the absence of the Treasury Manager, the Accounting Specialist-Treasury Operations.

VI. SAFEKEEPING AND CUSTODY

A. DEPOSITORY INSTITUTIONS – As far as possible, all money belonging to, or in the custody of the County Director of Finance shall be deposited for safekeeping in state or national banks selected by the Director of Finance, or may be invested as set forth in Section VII. To be eligible to receive funds, the bank shall have received an overall rating of not less than “satisfactory” in its most recent evaluation by the appropriate federal financial supervisory agency of its record of meeting the credit needs of California’s communities pursuant to Section 2906 of Title 12 of the United States Code.

B. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS - Schedule 1- Statement of Authorized Firms, on page 15, is a list of County Director of Finance approved financial institutions and broker/dealers authorized to provide investment services to the Treasury. Authorized firms can be added or deleted only with the Director of Finance’s approval. Any changes will result in modification to Schedule 1, but will not be considered a revision to this policy. Changes to authorized firms shall be reported to the County Treasury Oversight Committee and Board of Supervisors within two (2) weeks. The authorized parties include "primary" dealers or divisions of a primary dealers, selected on the basis of creditworthiness, capital adequacy, availability of investment inventory, and experience in trading in authorized investments. Firms utilized for money market mutual funds must either attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest

nationally recognized statistical-rating organizations (NRSRO) OR have retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years experience (i) investing in the securities and obligations as authorized in G.C. 53601, or (ii) managing money market mutual funds; and have assets under management in excess of five hundred million dollars (\$500,000,000). All financial institutions and broker/dealers who desire to become qualified firms for County Treasury investment transactions must supply the audited financial statements, proof of National Association of Securities Dealers (NASD) certification, proof of State registration, completed broker/dealer questionnaire, and certification of having read the Kings County Investment Policy. An annual review of the financial condition of qualified firms will be conducted by the Assistant Director of Finance - Treasury.

The Treasury shall not do any investment business with any broker, brokerage, dealer, or securities firm that has, within any consecutive 48-month period following January 1, 1996, made a political contribution, in an amount exceeding the limitations contained in Rule G-37 of the Municipal Securities Rulemaking Board, to any member of the Board of Supervisors or any candidate for those offices. Firms must provide corporate policy statements regarding compliance with political contributions limitations of Rule G-37.

C. INTERNAL CONTROLS - The County Director of Finance is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the investment portfolio are protected from loss, theft, or misuse. The internal control structure is designed to provide reasonable assurance that these objectives are met. The concept of reasonable assurance recognizes that (1) the cost of a control should not exceed the benefits likely to be derived; and (2) the valuation of costs and benefits requires estimates and judgments by management.

Daily, or when next available, the County Director of Finance or designee will

(1) Review and initial all Investment Purchase Orders to verify compliance with the overall Policy, Investment Parameters, and Authorized Institutions.

(2) Review and initial the “Daily Balance Sheet” to insure continuous compliance of portfolio investments (percentage distribution) to the Policy and Investment Parameters.

Weekly, the County Director of Finance or designee will verify that the Portfolio Percentage Report by investment type is balanced to the Daily Balance Sheet.

Monthly, all funds maintained by the County Director of Finance, including cash in treasury, deposits in transit, Kings County Department of Finance’s checking account balance, and investment holdings will be audited by the County Department of Finance – Accounting Division.

Quarterly, the County Director of Finance or designee will report compliance of the investment portfolio to the Director of Finance’s Statement of Investment Policy. (See Section IX. Reporting Methods on page 12)

Annually, the County Treasury Oversight Committee shall hire an external auditor to conduct an independent review to assure compliance of the Director of Finance's investment activities with the Statement of Investment Policy.

D. SAFEKEEPING - All securities purchased either outright or on repurchase agreements shall be held in safekeeping by a third party bank trust department acting as agent for the County under terms of a custody agreement executed by the bank and the Director of Finance. The only exceptions authorized are purchases from Local Agency Investment Fund (LAIF), collateralized time deposits, collateralized bank money market accounts, and investments in money market mutual funds.

E. VOLUNTARY DEPOSITORS - If a local agency determines the agency has excess funds which are not required for immediate use and with the consent of the County Director of Finance, the legislative or governing body may, by resolution or minute order, authorize the deposit of excess funds into the County Treasury for the purpose of investment pursuant to Government Code Section 53635. At no time will the County Treasury accept deposits of personal funds unless by Court order.

The County Director of Finance shall, on a case by case basis, determine the terms and conditions under which a city, public district, or any public or municipal corporations located within Kings County, and not required to deposit their funds in the County Treasury, may voluntarily deposit funds for investment purposes. The County Director of Finance shall evaluate each proposed deposit request prior to approving the deposit into the Treasury. The County Director of Finance must make a finding that the proposed deposit will not adversely affect the interests of the other depositors in the County Investment pool, prior to approving the deposit.

F. WITHDRAWAL OF FUNDS FOR EXTERNAL INVESTMENT -The County Treasury Oversight Committee's approved policy statement on "Treasury Restrictions on Withdrawal for External Investment" establishes the terms and conditions for Treasury depositors withdrawing funds for investment outside the County investment pool. (See Appendix A on page 17 and 18)

Any local agency, public entity, or public official that has funds on deposit in the County Treasury investment pool and that seeks to withdraw funds for the purpose of investing or depositing those funds outside the County Treasury pool, shall submit a resolution or minute order approved by the legislative or governing body requesting the withdrawal of the funds. Funds withdrawn shall become the responsibility of the requesting legislative body, and the Director of Finance will be held harmless from liability.

The County Director of Finance shall evaluate each proposed withdrawal for its consistency with the County Treasury Oversight Committee policy prior to approving the withdrawal. The County Director of Finance must also make a finding that the proposed withdrawal will not adversely affect the interests of the other depositors in the County Treasury pool, prior to approving the withdrawal.

VII. SUITABLE AND AUTHORIZED INVESTMENTS

- A. **INVESTMENT TYPES** - The County treasury may invest money among the following authorized investments and within the limits imposed by Government Code 53601 et seq. or 53635 et seq., or as more further restricted in Schedule 2-Investment Parameters on page 16:
1. **United States Treasury Bills, Notes, Bonds, and Certificates of Indebtedness**, or those for which the full faith and credit of the United States are pledged for the payment of principal and interest.
 2. **Registered state warrants or treasury notes or bonds of the State of California**, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the State or by a department, board, agency, or authority of the State.
 3. **Registered treasury notes or bonds of any of the other 49 states** including bonds payable solely out of the revenues from revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 states, in addition to California.
 4. **Bonds, notes, warrants, or other evidences of indebtedness of any local agency within the State of California**, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.
 5. **Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments**, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.
 6. **Banker's Acceptances (BA)** otherwise known as Bills of Exchange or Time Drafts, both domestic and foreign, drawn on and accepted by a commercial bank.
 7. **Commercial Paper (CP)** of "prime" quality issued by corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars (\$500,000,000).
 8. **Negotiable Certificates of Deposit** issued by a nationally or state chartered bank or a savings association or federal association, or by a federally- or state-licensed branch of a foreign bank.
 9. **Certificates of Deposit Account Registry Service (CDARS)** placed with a local CDARS member. CDARS are fully insured as to principal and interest that may be accrued by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration (NCUA).
 10. **Collateralized Time Deposits** issued by a nationally or state-chartered bank or savings and loan association within the State of California with an overall rating of not less than "satisfactory"

in its most recent evaluation by the appropriate federal financial supervisory agency of its record of meeting the credit needs of California's communities pursuant to Section 2906 of Title 12 of the United States Code.

11. Repurchase Agreements or Reverse Repurchase Agreements, or Securites Lending Agreement purchased in compliance with the Government Code 53601(j). Repurchase agreements must be issued by nationally or state-chartered banks or primary security dealers with whom the County Director of Finance has entered into a Master Repurchase Agreement.

12. Medium Term Corporate Notes (MTN), defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States.

13. Shares of Beneficial Interest issued by diversified management companies (1) that invests in the securities and obligations as authorized by subdivision (a) to (k), inclusive, or subdivisions (m) to (o) inclusive of Government Code 53601, and that comply with the investment restrictions of Article 2 of the Government Code (commencing with Section 53630), or (2) that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940. (15 U.S.C. Sec 80a-1, and following.)

14. Local Agency Investment Fund (LAIF) an investment pool created by Government Code 16429.1 in which the State Treasurer invests pooled political subdivision funds.

15. Notes, Bonds, or other obligations secured by a valid first priority security interest in eligible securities listed in Section 53651 having a market value at least equal to that required by Section 53652.

16. Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subdivisions (a) to (q), inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

- (1) The adviser is registered or exempt from registration with the Securities and Exchange Commission.
- (2) The adviser has not less than five years of experience investing in the securities and obligations authorized in subdivisions (a) to (q), inclusive.
- (3) The adviser has assets under management in excess of five hundred million dollars (\$500,000,000).

17. Supranational Debt Obligations United States dollar-denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development (IBRD), International Finance Corporation (IFC), or Inter-American Development Bank (IADB) only, eligible for purchase and sale within the United States. Authorized by CGC 53601 (q) and this policy.

B. RESTRICTIONS ON AUTHORIZED INVESTMENTS- In accordance with G.C. 53601.6, the County Treasury shall not invest any funds in inverse floaters, range notes, or mortgage derived interest-only strips. Additionally, no funds shall be invested in any security that could result in zero interest accrual if held to maturity. No funds shall be invested in Medium Term Corporate Notes with a make-whole call provision that, at time of purchase, are priced at a premium. **No funds shall be invested in securities with a forward settlement date exceeding 45 days from the time of investment.** No shares of beneficial interest will be purchased where the principal dollars invested are subject to daily net asset value (NAV) adjustments of the fund's portfolio except for the CalTrust. The Treasury shall not invest in financial options and futures contracts directly, but may purchase authorized investments of callable securities with imbedded call provisions. The Treasury will not purchase an authorized investment below the credit quality restriction of Schedule 2 - Investment Parameters, but may elect to hold an instrument to maturity that has been later downgraded by the nationally recognized statistical-rating organization i.e. Moody's, Standard and Poors, or Fitch.

C. COMPETITIVE BIDDING - Bids for investment products shall be taken from a minimum of three authorized institutions. Awards will be made giving consideration to safety, liquidity, a balanced portfolio, and diversification. Exceptions to the above would involve repurchase agreements, securities possessing unique characteristics which would make competitive bidding impractical, or market circumstances in which competitive bidding could be adverse to the best interest of the Director of Finance's investment program.

D. COLLATERALIZATION - In accordance with California Government Code 53652, **53601** (j) full collateralization of public deposits is required for collateralized time deposits, collateralized bank money market accounts, and repurchase agreements. The Director of Finance may waive collateralization for that portion of any deposit that is fully insured by the FDIC per Government Code 53653.

VIII. INVESTMENT PARAMETERS

A. DIVERSIFICATION - The investments will be diversified by security type and institution within the percent restrictions of Government Code 53601, 53601.8, 53635, 53635.2, and 53635.8 or as further defined in Schedule 2, Investment Parameters. Percent restrictions shall be applicable only for the date of purchase. Any future percent deviations due to cash flow demands reducing the total investment portfolio shall not be considered out of compliance. Maximum investment amounts in any issuer name shall be limited as provided in the Investment Parameters on page 16.

B. MAXIMUM MATURITIES - Maturity limitations for each instrument type shall be restricted as provided in Government Code 53601, 53601.8, 53635, and 53635.8 or as further defined in Schedule 2 - Investment Parameters on page 16. No investment shall be made in any security, other than a security underlying a repurchase agreement authorized in this policy, which at the time of ~~investment~~ **settlement** has a term remaining to maturity in excess of five years, unless a

legislative body has granted express authority to make that investment either specifically or as part of an investment program approved by that legislative body no less than three months prior to the investment.

IX. REPORTING

A. METHODS - The County Director of Finance or designee shall prepare an investment report at least quarterly, including a succinct management summary that provides a clear picture of the status of the investment portfolio. This summary will be prepared in a manner which will allow the reader to ascertain whether investment activities have conformed to the investment policy.

The report will be provided within ~~30~~ **45** days following the end of the quarter covered by the report and submitted to the County Board of Supervisors, County Administrative Officer, Finance Director, other members of the County Treasury Oversight Committee, and pool participants.

The report will include the following:

1. A Statement of Compliance with the Investment Policy.
2. A listing of individual securities and moneys held at the end of the reporting period to include:
 - (a) The type of instrument.
 - (b) The name of the issuer.
 - (c) Purchase date, maturity date, and days to maturity.
 - (d) Issuers rating. (Long term or short term, as appropriate)
 - (e) Par and dollar amount invested in each security.
 - (f) The current market value of securities as of the date of the report and the source of the valuation.
3. A statement estimating the ability of the County Treasury to meet its pool's expenditure requirement for the next six months.
4. A statement of the method of interest accounting used.
5. Portfolio Sector Allocation and Quality Allocation graphs.
6. A Statement of Interest Earnings Report for the Quarter.
7. If applicable, a description of any of the local agency's funds, investments, or programs, that are under the management of contracted parties, but excluding funds deposited into the Local Agency Investment Fund administered by the State Treasurer.

B. QUARTERLY INTEREST CALCULATION AND APPORTIONMENT - Gross interest for the quarter is the total interest earned on an accrual basis on the Treasury portfolio investments for that quarter. Administrative expenses pursuant to G.C. 27013 are deducted to arrive at net interest to be apportioned. Administrative expenses consist of audit expenses, direct

banking expenses, not otherwise recovered directly from Treasury depositors, safekeeping fees, plus actual quarterly Treasury operational expenses. The net earnings for the quarter are divided by the Treasury's total average daily balance creating an "interest allocation factor" or "daily interest factor" for each average dollar invested. Multiply the "interest allocation factor" by the quarterly average daily balance of each fund to determine the interest earnings for each fund. Interest is apportioned quarterly to all depositors in the Treasury pool. The "interest allocation factor" can be converted into the annualized quarterly interest rate; multiply the factor by the number of days in the year and divide that answer by the number of days in the quarter.

X. POLICY EXCEPTIONS & REVISIONS

A. EXEMPTION - Any previously legal investments that settled prior to the effective date and that no longer meet the current guidelines of this Policy, shall be exempted from the new requirements. At maturity or liquidation, such moneys shall be reinvested only as provided by this Policy.

Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance thereof. The proceeds of sales, or funds set aside for the repayment, of any notes or other indebtedness issued shall not be invested for a term that exceeds the term of the notes.

B. AMENDMENTS - This policy shall be reviewed at least on an annual basis. Any changes shall be submitted by the Director of Finance to the County Treasury Oversight Committee for consideration and comments, and the Board of Supervisors for review and approval.

**KINGS COUNTY DIRECTOR OF FINANCE'S
SCHEDULE 1 - STATEMENT OF AUTHORIZED FIRMS**

The Treasury is authorized to conduct investment security transactions with the following investment firms and broker/dealers, designated by the Federal Reserve Bank as primary government dealers or divisions of primary dealers. Security transactions with firms, other than those appearing on this list, are prohibited.

- A. Firms designated by the Federal Reserve Bank as Primary Government Dealers or a division of a Primary Dealer:

UBS Financial Services Inc., an affiliate of UBS Securities LLC
RBC Capital Markets, LLC
Wells Fargo Securities, LLC
Cantor Fitzgerald & Co.

- B. Firms designated for the purchase of money market mutual funds pursuant to G.C. 53601 (l) and (p):

BlackRock
Bank of the West
CalTRUST

- C. Firms designated for repurchase agreements with Master Repurchase Agreements on file:

UBS Financial Services Inc., an affiliate of UBS Securities LLC

- D. State of California, Local Agency Investment Fund

- E. Purchases directly from major issuers of commercial paper, bankers acceptances, negotiable certificates of deposit, or collateralized time deposits, meeting the requirements set forth in section 53635, 53601(g), 53601(i), 53601(n), respectively, and 53635.2 of the California Government Code.

To ensure compliance with the County Director of Finance's Investment Policy, firms designated in A and C above are supplied a complete copy of the policy and must certify having read it.

Dated: January 1, 2024

Erik Ureña, CPA, Director of Finance

SCHEDULE 2 – INVESTMENT PARAMETERS (Revised 12/5/23)

AUTHORIZED INVESTMENTS	DIVERSIFICATION	PURCHASE RESTRICTIONS	MATURITY	CREDIT QUALITY (NRSRO)
U.S. Treasury notes, bills, bonds or other certificates of indebtedness	95% Max.	None	Max. 5 years	N/A
Notes, participations, or obligations issued by Federal agencies or United States government-sponsored enterprises (GSE)	85% Max.	None	Max. 5 years	N/A
Bonds, notes, warrants or certificates of indebtedness issued by the State of California or local agencies or County of Kings or any other State	20% or \$20mm Max.	None	Max. 5 years unless prior BOS approval	L/T rating A or A2 or better
Bankers Acceptances	40% Max.	Max. \$5mm any one name	Max. 180 days	S/T rating A-1 or P-1 L/T rating (if Outstanding) AA- or Aa3 or better
Commercial paper of corporations organized and operating within the U.S. with total assets exceeding \$500 mm	40% Max.	Max. 10% in any one name, No Extendable CP	Max. 270 days.	S/T rating A-1 or P-1 L/T rating (if Outstanding) AA- or Aa3 or better
State of California Local Agency Investment Fund	Max. Dollars allowed by State Treasurer	Max. Transactions allowed by State Treasurer	Overnight liquidity	N/A
Negotiable CD's issued by National or State chartered banks or a federally- or <i>state</i> - licensed branch of a foreign bank	25% Max. (CDs + CDARS)	G.C. 53638 policy restrictions	Max. 3 years	L/T rating AA- or Aa3 or better
Certificates of Deposit Account Registry Service (CDARS)	25% Max. (CDs + CDARS)	G.C. 53601.8 & 53635.8 conditions apply	Max. 3 years	100% FDIC/NCUA insured as to Principal and Interest
Collateralized Time Deposits.	10% Max.	Collateral policy restrictions G.C. 53601(n)	Max. 24 months	
Repurchase Agreements with collateral restricted to U. S. Treasury, Federal Agencies, or United States government-sponsored enterprises (GSE)	10% Max.	Master Repurchase and Tri-Party Custodial Agreements to be on file. 102% haircut	Max. 1 year	
Reverse Repurchase Agreements or Securities Lending on U.S. Treasury & Federal Agency Securities in portfolio	10% Max. with approval of the Director of Finance	G.C. 53601(j) Reverse Repurchase and Securities Lending restrictions	Max. 92 days unless guaranteed spread	
Corporate Notes on U.S. Corp or U.S. Subsidiary of a foreign corp.	30% Max.	Max. \$150mm any one name Make - Whole Call Restrictions	Max. 5 years	L/T rating AA- or Aa3 or better
Asset Backed Securities on U.S. Corp.	0% Max.	Not authorized	Not authorized	Not Authorized
Money Market mutual funds that invest in eligible securities meeting Government Code requirements.	20% Max. 10% per fund	Fund 5 years or more old NAV pricing <i>restriction</i> No front or back loads	Overnight liquidity	L/T rating: Highest rating from two NRSRO, i.e. AAA, Aaa, etc. Retain Investment Advisor per G.C. 53601(l) & (p)
Supranationals – Washington dollar denominated IBRD, IFC or IADB	20% Max. 10% per Name	Max. 10% in any one name	Max. 5 years	L/T rating: Highest rating from two NRSRO, i.e. AAA, Aaa, etc.
California Asset Management Program - CAMP	15% Max.	Max. Transactions allowed by CAMP Administration	Overnight liquidity	N/A

APPENDIX A

COUNTY TREASURY OVERSIGHT COMMITTEE

Policy Statement and Authorized Practice Approved March 4, 1996

Treasury Restrictions on Withdrawal for External Investment

Authorization: Pursuant to Government Code Section 27130 and Kings County Board of Supervisor's Resolution No. 95-081, dated December 5, 1995, the Kings County Treasury Oversight Committee is authorized to establish criteria on the withdrawal of funds on deposit in the County Treasury investment pool for the purpose of investing or depositing those funds outside the County Treasury pool.

Request for Withdrawal: Any local agency, public entity, or public official that has funds on deposit in the County Treasury investment pool and that seeks to withdraw funds for external deposit or investment, shall first submit a request by resolution or minute order approved by the legislative or governing body for withdrawal of the funds.

Assessment of Withdrawal Impact: The County Director of Finance shall evaluate all requests for withdrawal to determine if the interests of the other Treasury depositors in the County Treasury pool will be adversely affected. If the County Director of Finance determines that the combined number of requests or total dollar amount requested is sufficient to constitute a "run on the treasury", no withdrawal requests shall be processed until the County Treasury Oversight Committee has reviewed the treasury financial position and assists the Director of Finance in establishing an action plan.

Approval or Disapproval: The County Director of Finance shall approve all requests upon the finding that other Treasury depositors will not be adversely affected. If other Treasury depositors are perceived to be adversely impacted, the County Director of Finance may postpone action on any withdrawal request until the County Treasury Oversight Committee has reviewed the situation.

Approved Withdrawal Criteria: Approved withdrawals will be processed dependent on availability of funds, the type of investments required to be liquidated, market conditions, settlement periods, and dollar amounts to be withdrawn. The following are target goals for withdrawals:

- a. If adequate liquidity exists in short term investments and requires minimal liquidation and settlement, withdrawals of amounts up to \$1,000,000.00 shall be processed immediately upon the County Director of Finance's approval.
- b. If the County Treasury liquidity position is such as to require liquidation of more difficult investment(s), the below processing times shall apply based on the withdrawal dollar amounts and market factors.
 - (1). If the withdrawal amount is less than \$1,000,000.00, and favorable market conditions exist, requests shall be processed within three workdays.

(2). If the withdrawal amount is greater than \$1,000,000.00, or unfavorable market conditions exist, requests shall be processed within five workdays.

Disclaimer of Liability: Any and all funds withdrawn from the County Treasury investment pool for the purpose of investing or depositing such funds outside the pool shall become the responsibility of the legislative body requesting the action. The County Director of Finance or County of Kings shall in no manner be held responsible or liable for withdrawn funds or investments purchased with said funds. The request of any legislative body, by resolution or minute order, authorizing the withdrawal of funds for deposit or investment outside the County Treasury investment pool must provide a disclaimer of liability. The Director of Finance shall not honor any such withdrawal request if a disclaimer clause is not provided.

GLOSSARY OF TERMS

AGENCIES OR FEDERAL AGENCIES: Federal sponsored agency securities including discount notes, or interest bearing notes, and bonds. The agencies were created by Congress to reduce the cost of capital for certain borrowing sectors of the economy deemed to be important enough to warrant assistance, such as farmers, homeowners, and students.

ASKED PRICE: The lowest price at which a dealer is willing to sell a security.

BANKERS ACCEPTANCES (BA'S): A time draft or bill of exchange that is accepted payment by banks engaged in financing of international trade. The accepting institution guarantees payment of the bill as well as the issuer.

BID: Price at which someone is willing here and now to purchase a security.

BOOK VALUE: The value at which a security is carried on the inventory list or other financial records of an investor. The Book Value may differ significantly from the security's current value in the market.

BROKER: Person or firm acting as intermediary between buyer and seller.

CALLABLE BOND: A bond issue in which all or part of its outstanding principal amount may be redeemed before maturity by the issuer under specified conditions.

CERTIFICATES OF DEPOSIT (CD'S): A time deposit with a specific maturity evidenced by a certificate. They are issued in two forms negotiable and collateralized.

Negotiable Certificates of Deposit: May be sold by one holder to another prior to maturity. The issuing bank agrees to pay the amount of the deposit plus interest earned to the BEARER of the certificate at maturity.

Collateralized Time Deposits: These certificates are collateralized and are not money market instruments since they cannot be traded in the secondary market. They are issued on a fixed maturity basis and fixed payee.

CERTIFICATE OF DEPOSIT ACCOUNT REGISTRY SERVICES (CDARS): Certificates of Deposit that are placed by a member bank with commercial banks, savings banks, savings and loan associations, or credit unions, such that the principal and all accrued interest during the term of the certificate are fully insured by either the FDIC OR NCUA.

COLLATERAL: Securities pledged by a bank to secure deposits of public funds, or an asset pledged by a borrower to a lender.

COMMERCIAL PAPER: An unsecured short-term promissory note issued by corporations with maturities ranging from 2 to 270 days.

COUNTY TREASURY OVERSIGHT COMMITTEE: A committee established by Board of Supervisors Resolution No. 95-081, dated December 5, 1995 to allow local agency representatives participation in the policies that guide the investment of depositor funds. The primary responsibilities include: (1) review and monitor the County Director of Finance's investment policy, (2) cause an annual audit to be conducted to determine the county treasury's compliance, and (3) establish criteria for depositor withdrawal of funds for the purpose of investing or depositing outside the county treasury pool.

COUPON RATE: The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value.

DEALER: A dealer, as opposed to a broker, acts as a principal in all transaction, buying and selling for his own account.

DEBENTURE: A longer-term debt instrument issued by a corporation that is unsecured by other collateral. Hence, only the good faith and credit standing of the issuer backs the security.

DELIVERY VERSUS PAYMENT: There are two methods of delivery of securities: delivery vs. payment and delivery vs. receipt. Delivery vs. payment is delivery of securities with an exchange of money for the securities. Delivery vs. receipt is delivery of securities with an exchange of a signed receipt for the securities.

DISCOUNT: The difference between the cost price of a security and its maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

DISCOUNT SECURITIES: Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g. U.S. Treasury Bills

DIVERSIFICATION: A process of investing assets among a range of security types by sector, maturity, and quality rating.

DOLLAR WEIGHTED AVERAGE MATURITY: The sum of the amount of each outstanding investment multiplied by the number of days to maturity, divided by the total amount of outstanding investments.

FEDERAL CREDIT AGENCIES: Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, e.g. S&L's, small business firms, students, farmers, farm cooperatives, and exporters.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC): A federal agency that insures bank deposits, currently up to \$250,000 per deposit.

FEDERAL FARM CREDIT BANKS (FFCB): is a nationwide system of lending institutions that provide credit and related services to farmers, ranchers, producers and harvesters of agricultural products, and other farm related businesses.

FEDERAL FUNDS RATE: The rate of interest at which Fed funds are traded. This rate is currently pegged by the Federal Reserve through open-market operations.

FEDERAL HOME LOAN BANKS (FHLB): The institutions that regulate and lend to savings and loan association. The Federal Home Loan Banks play a role analogous to that played by the Federal Reserve Banks vis-à-vis member commercial banks.

FEDERAL HOME LOAN MORTGAGE CORPORATION (FHLMC) : is a federally chartered and stockholder-owned corporation. Freddie Mac purchases mortgage loans from qualified financial institutions and resales these loans in the form of guaranteed mortgage securities.

FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA): FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing and Urban Development (HUD). It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans, in addition to fixed-rate mortgages. FNMA's securities are also highly liquid and are widely accepted. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

FEDERAL OPEN MARKET COMMITTEE (FOMC): Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member, while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

FEDERAL RESERVE SYSTEM: The central bank of the United States created by Congress and consisting of a seven member Board of Governors in Washington, D.C., 12 regional Federal Reserve Banks, their 24 branches, and all national and state banks that are members of the system.

FLOATER: A derivative that has its coupon determined by using the yield of other securities.

FUTURES: Futures contracts are the units of trading at a commodity exchange. They are legally binding agreements made within the confines of an exchange trading area. All futures contracts call for the purchase or sale of a physical commodity of financial instrument on dates from one month to more than two years in the future.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae) Securities influencing the volume of bank credit guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loan associations, and other institution. Security holder is protected by full faith and credit of the U.S. Government. Ginnie MAE securities are backed by the FHA, VA, or FMHM mortgages. The term "passthroughs" is often used to describe Ginnie Maes.

GOVERNMENT-SPONSORED ENTERPRISES (GSE): General term for several privately owned, publicly chartered agencies created to reduce borrowing costs for certain sectors of the economy such as

farmers, homeowners and students. The GSEs that issue debt instruments include: Federal Home Loan Banks, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Farm Credit System, Federal Agricultural Mortgage Corporation, and the Student Loan Marketing Association.

LIQUIDITY: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable sales can be done at those quotes.

LOCAL AGENCY INVESTMENT FUND (LAIF): The aggregate of all funds from political subdivisions that are placed in the custody of the California State Treasurer for investment and reinvestment.

MARKET RISK: The risk that the value of a security will rise or decline as a result of changes in market conditions.

MARKET VALUE: The price at which a security is trading and could presumably be purchased or sold.

MASTER REPURCHASE AGREEMENT: A written contract covering all future transactions between the parties to repurchase--reverse repurchase agreements that establishes each party's rights in the transaction. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

MATURITY: The date upon which the principal or stated value of an investment becomes due and payable.

MONEY MARKET: The market in which short-term debt instruments (bills, commercial paper, banker's acceptances, etc.) are issued and traded.

MONEY MARKET MUTUAL FUND: Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers' acceptances, etc.).

NATIONALLY RECOGNIZED STATISTICAL-RATING ORGANIZATION (NRSRO) Independent credit rating agencies which are utilized to analyze and rate the quality of the issuers underlying debt.

OFFER: The price asked by a seller of securities. (When you are buying securities, you ask for an offer.)

OPEN MARKET OPERATIONS: Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank as directed by the FOMC in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

OPTIONS: The buyer of a call option has the right to buy the underlying security at fixed price. The option seller is obligated to sell the security if the buyer chooses to exercise the option.

PORTFOLIO: Collection of securities held by an investor.

PRIMARY DEALER: A group of government securities dealers who submit daily reports of market activity and positions and monthly financial statements to the Federal Reserve Bank of New York and are subject to its informal oversight. Primary dealers include Securities and Exchange Commission (SEC)-registered securities broker-dealer, banks and a few unregulated firms.

PRUDENT PERSON RULE: An investment standard. In California the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities approved by the State, the authorized investments. The trustee may invest in a security if it is one, which would be bought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

QUALIFIED PUBLIC DEPOSITORIES: A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which has segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Commission to hold public deposits.

RATE OF RETURN: The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

REINVESTMENT RISK: The risk that a fixed-income investor will be unable to reinvest income proceeds from a security holding at the same rate of return currently generated by that holding.

REPURCHASE AGREEMENT (RP or REPO): A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Fed is said to be doing RP, it is lending money, this is increasing bank reserves.

REVERSE REPURCHASE AGREEMENT: A dealer of securities buys securities from an investor with an agreement to sell them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" or "investor" money for the period of the agreement, and the terms of the agreement are structured to compensate the dealer for this. Investors use reverse-repos to meet temporary cash shortages without liquidating the investments.

SAFEKEEPING: A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the bank's vaults for protection.

SECONDARY MARKET: A market made for the purchase and sale of outstanding issues following the initial distribution.

SECURITY: Any investment instrument authorized for purchase under Government Code 53601 or 53635.

SECURITIES AND EXCHANGE COMMISSION (SEC): Agency created by Congress to protect investor in securities transactions by administering securities legislation.

SECURITIES LENDING AGREEMENT: An agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

SUPRANATIONALS: An international organization, or union, whereby member states transcend national boundaries or interests to share in the decision-making and vote on issues pertaining to the wider grouping.

SURPLUS FUNDS: All moneys are not required to meet the banks demands on the treasury to redeem check warrants on any given day are considered "surplus funds" for investments.

TREASURY BILLS: A non-interest bearing discount security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

TREASURY NOTES: A interest bearing security issued by the U.S. Treasury to finance the Federal debt with a maturity range of from zero to ten years.

TREASURY BOND: Long-term U.S. Treasury securities having initial maturities between ten to thirty years.

TRI-PARTY CUSTODIAL AGREEMENT: A third party custodian bank agrees to safekeep the repo collateral in a segregated custody account for the client. The custodian bank independently prices the collateral and ensures that the collateral is properly securitized.

UNIFORM NET CAPITAL RULE (SEC RULE 15C3-1): Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities, one-reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

YIELD: The rate of annual income return on an investment expressed as a percentage. (a) INCOME YIELD is obtained by dividing the current dollar income by the current market price for the security. (b) NET YIELD or YIELD TO MATURITY is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period of the date of purchase to the date of maturity of the bond.

YIELD-TO-CALL (YTC): The rate of return an investor earns from a bond assuming the bond is redeemed (called) prior to its nominal maturity date.

YIELD CURVE: A graphic representation that depicts the relationship at a given point in time between yields and maturity for bonds that are identical in every way except maturity. A normal yield curve may be alternatively referred to as a positive yield curve.

YIELD-TO-MATURITY: The rate of return yielded by a debt security held to maturity when both interest payments and the investor's potential capital gain or loss are included in the calculation of return.



COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 852-2362
Catherine Venturella, Clerk of the Board of Supervisors

AGENDA ITEM December 5, 2023

SUBMITTED BY: Fire Department - William Lynch

SUBJECT: DONATION OF NARCAN FROM THE TACHI PALACE CASINO RESORT

SUMMARY:

Overview:

The Fire Department is requesting approval to accept the donation of Narcan (Naloxone) from the Tachi Palace Casino Resort.

Recommendation:

Authorize the Fire Chief to accept the Narcan (Naloxone) donation from the Tachi Palace Casino Resort.

Fiscal Impact:

There is no fiscal impact to the Fire Fund. The acceptance of this donation will eliminate the need for the department to utilize current revenues for this purchase. At about \$23 per dose, this donation is valued at approximately \$2,200.

BACKGROUND:

The Fire Department utilizes Narcan, otherwise known as Naloxone, to rapidly reverse the effects of an opioid overdose emergency. Naloxone is given to any person who shows signs of an opioid overdose or when an overdose is suspected. Naloxone can be given as a nasal spray or it can be injected into the muscle, under the skin, or directly into the veins. The proposed donated treatment is in the nasal spray form, which can be used for Emergency Medical Technician protocols. During the period of 2019 to 2021, California has experienced an increase in drug overdose related deaths of more than 121%. As the opioid epidemic continues to rise in the United States, fire departments, police officers, emergency medical technicians, and non-emergency first responders are using Naloxone more than ever before. The department's current supply of Naloxone is reaching its expiration date and will need to be replaced by the end of the year. This contribution from the Tachi Place Casino Resort will allow for the uninterrupted emergency use of this treatment by the Kings County Fire Department and support the department's life saving mission.

BOARD ACTION :

APPROVED AS RECOMMENDED: _____ OTHER: _____

I hereby certify that the above order was passed and adopted
on _____, 2023.

CATHERINE VENTURELLA, Clerk to the Board

By _____, Deputy.



COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 852-2362
Catherine Venturella, Clerk of the Board of Supervisors

AGENDA ITEM December 5, 2023

SUBMITTED BY: Sheriff's Office – David Robinson

SUBJECT: AGREEMENT WITH PIGEONLY, INCORPORATED

SUMMARY:

Overview:

The Kings County Sheriff's Office requests approval of an agreement with Pigeonly, Incorporated for inmate mail services.

Recommendation:

Approve the agreement with Pigeonly, Incorporated for inmate mail services.

Fiscal Impact:

There is no impact to the General Fund. The cost is \$4 per month per Average Daily Population. As of March 24, 2023, the average daily population was 454 inmates, and as a result the Kings County Sheriff's Office will be billed the fixed price of \$21,792 per year. The fixed price will be adjusted each year 30 days prior to each year's contract expiration date. The cost for the inmate mail system will be paid from the Prison Inmate Welfare Fund (Fund 100810).

BACKGROUND:

Pigeonly, Incorporated (Inc.) is an off-site inmate mail service. Instead of inmate mail being delivered to the Kings County Jail facility and being distributed to the inmate population, it would instead be routed to Pigeonly, Inc. Pigeonly, Inc. then provides the Kings County Jail with copies of the mail's contents and those copies are distributed to the inmate population (legal mail excluded). The purpose of contracting with an off-site, electronic mail provider, is to reduce the amount of contraband in the facility. Mail is one of the leading ways contraband (e.g., methamphetamine, heroin, fentanyl, etc.) gets into the Kings County Jail. Mail is currently scanned by staff, to include the jail's detection canines. With the prevalence of fentanyl, the department requires two staff present at all times while scanning mail, in the event staff come in contact with a dangerous

(Cont'd)

BOARD ACTION :

APPROVED AS RECOMMENDED: _____ OTHER: _____

I hereby certify that the above order was passed and adopted
on _____, 2023.

CATHERINE VENTURELLA, Clerk to the Board

By _____, Deputy.

Agenda Item

AGREEMENT WITH PIGEONLY, INCORPORATED

December 5, 2023

Page 2 of 2

substance and need immediate medical attention. Pigeonly, Inc. will provide a safer environment for Kings County Sheriff's Office staff and inmates.

The agreement will begin December 5, 2023, and will remain in effect until July 31, 2024. Upon expiration of the initial term, the agreement shall be renewed for up to four successive one-year periods if agreed upon in writing.

The agreement has been reviewed and approved by County Counsel as to form.

SOFTWARE AS SERVICE AGREEMENT

BETWEEN: PIGEONLY, INC. (“Pigeonly”), a corporation organized and existing under the laws of Delaware, with its principal place of business located at: PIGEONLY, LLC - 2252 East Pama Lane, Las Vegas, NV 89119;

AND the County of Kings, a political subdivision of the State of California on behalf of its Sheriff’s Office (“the “Customer”), organized and existing under the laws of California with its principal place of business located at: 1570 Kings County Dr, Hanford, CA 93230.

Pigeonly and Customer may each be referred to in this Agreement as “Party” and together, as the “Parties”.

WHEREAS, Customer has the responsibility of reviewing and distributing inmate mail at Customer’s facilities, known as the Kings County Jail (KCJ) and detecting contraband and other items prohibited to enter Customer’s facility through inmate mail, the Customer seeks to obtain Software and Services to assist them with this responsibility. The Customer is granted a license to use the Pigeonly’s Software, subject to a set of limitations and restrictions.

WHEREAS, Pigeonly undertakes to provide high performance Software while committing to comply with certain requirements relating to the maintenance and use of the Software and shall provide Customer those services set forth in this Service Agreement.

Now therefore, in consideration of the mutual agreements here in after set forth, and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties, intending to be legally bound, and agree as follows:

1. DEFINITIONS

“*Administrator User*” means each Customer employee designated by Customer to serve as technical administrator of the Services on Customer’s behalf.

“*Authorized User*” means any individual authorized by Customer to use Pigeonly’s Services.

“*Confidential Information*” means any information disclosed by a Party to the other Party, directly or indirectly, which could be orally or in written graphic, machine – readable or other tangible form, if that information: (1) is marked as “confidential” or “proprietary”; or (2) reasonably should be understood by the receiving Party as being proprietary or otherwise sensitive in nature.

“*Customer Systems*” means the Customer’s information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems) and networks, whether operated directly by Customer or through the use of third-party services, utilized by the Customer to access the Software and any related applications for the Services.

“*Contraband*” any hazardous materials found by Pigeonly Staff when opening parcels (hazardous materials can include but not limited to the following: Controlled Substances, Weapons, Illegal Drugs and any other substance deemed hazardous Item(s) found during Pigeonly’s initial inspection.

“*Documentation*” refers to all data, work and materials stored, uploaded, and supplied by Pigeonly to Customer or Customer Systems.

“*Legal Mail*” refers to Pigeonly’s software solution for secure attorney-client communications between inmates and their counsel, with multi-factor authentication and identity verification.

“*Maintenance Services*” means the support and maintenance services provided by Pigeonly to Customer pursuant to this Agreement.

“*Non-legal Mail*” refers to Pigeonly’s software solution for ordinary inmate mail that does not involve attorneys.

“*Services*” refers to the specific Software, internet accessible service identified in a schedule that provides use of Pigeonly’s Software and Services that is hosted by Customer’s Systems or Customer’s service providers and made available to Customer over a network on a term-as-use basis.

“*Schedule*” refers to any schedule and/or exhibit attached to this Agreement.

“*Software*” means the object code version of any software to which Customer is provided access as part of the Services including any updates or new versions that are owned by Pigeonly.

“*User*” means any person who utilizes Pigeonly’s Services through their mobile application or Internet based platform.

In Consideration of the mutual promises and obligations set forth below, the Parties agree as follows:

2. PIGEONLY’S OBLIGATIONS

2.1. Pigeonly, hereby grants the Customer, including all Authorized Users of the Customer, a non-exclusive, non-sublicensable, non-assignable, royalty-free, worldwide license to access and use the service (the “Services”) solely for the internal business operations of the Customer in accordance with the terms of this Agreement and Pigeonly’s online terms of use. Pigeonly will provide Customer with access to the Services and Software, through the Internet, solely for Customer’s internal use.

2.2. Pigeonly hereby agrees to perform the following mail handling Services:

- a. Receiving and opening mail directed to inmates housed in the Customer’s facility sent by Pigeonly Users either by regular mail sent to Pigeonly’s designated Post Office Box: “**P.O. Box (TBD), 1001 E. Sunset Rd., Las Vegas, NV 89119**” or electronically through use of Pigeonly’s online application and services;
- b. Digitally scanning United States Postal Service (“USPS”) mail
- c. Sending a tangible copy of any mail (USPS or Pigeonly mail) received to Customer’s facility;
- d. Storing original copies of mail for forty-five (45) days and thereafter disposing/shredding the original copies of the mail;
- e. Notifying the Customer of any Contraband found upon opening any USPS mail prior to digitally scanning the mail; and
- f. Such other Services as the Parties may mutually agree upon from time to time.

2.3. Pigeonly will undertake commercially reasonable efforts to make the Services available to Customer-on-Customer Systems at all times, provided that the Services may not be available as follows:

- a. For scheduled or emergency maintenance, including but not limited to, service downtime or degradation caused by a Force Majeure Event or any other circumstances beyond

Pigeonly's reasonable control, including Customer's or any Authorized User's use of Third-Party Materials, misuse of the Software Services.

b. Pigeonly may, directly or indirectly, suspend, terminate or otherwise deny Customer, any Authorized User's or any other third party's access to or use of all or any part of the Services, without incurring any resulting obligation or liability, if:

i. Pigeonly receives a judicial or other governmental demand or order, subpoena or law enforcement request that expressly or by reasonable implication requires Pigeonly to do so; or

ii. Pigeonly believes, in its good faith and reasonable discretion, that: (i) Customer or any Authorized User has failed to comply with, any term of this Agreement, or accessed or used the Services beyond the scope of the rights granted or for a purpose not authorized under this Agreement; (ii) Customer or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading or unlawful activities relating to or in connection with any of the Services; or (iii) this Agreement expires or is lawfully terminated pursuant to its terms. This Section (2.3.ii.2) does not limit any of either Party's other rights or remedies, whether at law, in equity or under this Agreement.

iii. While Customer is in material breach of this Agreement (subject to any cure period hereunder), including without limitation, failure to pay any amounts due to Pigeonly. Pigeonly may deny Customer or Authorized Users or third parties access or use of the Services before the end of the cure period if Pigeonly determines, in its reasonable discretion, that such denial is necessary for Pigeonly to avoid liability.

2.4. Pigeonly will use reasonable efforts to give Customer prior written notice of any suspension or scheduled maintenance.

3. CUSTOMER'S OBLIGATIONS

3.1. Access to and use of all the features and/or functionalities of the Services may require Customer to download and/or install certain Pigeonly application software (collectively, the "[Facility Dashboard]").

3.2. Customer will be directly responsible hereunder for all actions and/or inactions of its Authorized Users hereunder. Except for software stored on the Customer's own servers, the Software underlying the Services will be hosted on a server under control or direction of Pigeonly. The Services are subject to modification from time to time at Pigeonly's sole discretion, for any purpose deemed appropriate by Pigeonly, provided that Pigeonly will not materially reduce the aggregate features and functionalities of the Services.

3.3. Customer will reasonably cooperate with Pigeonly to facilitate provision of the Services. This cooperation will include, without limitation, (i) performing any tasks reasonably necessary for Pigeonly to fulfill Services to its Users and to avoid unnecessary delays; (ii) fulfilling any Customer obligations described herein in a timely manner; and (iii) responding to Pigeonly's reasonable requests related to the Services in a timely manner. Pigeonly will not be liable for any delays in performing the Services that arise principally from Customer's acts or omissions, including, without limitation, its failure to comply with this Section 3.3.

3.4. If Customer becomes aware of any actual or threatened activity prohibited by Section 2.3(b)(ii), Customer shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within respective control of Customer and its Authorized Users that are necessary to stop the activity or threatened activity and to mitigate the effects of such activity (including, where applicable, by discontinuing and preventing any unauthorized access to the Services).

4. AUTHORIZATIONS AND RESTRICTIONS

4.1. Subject to and conditioned on Customer's payment of the Fees and material compliance and performance in accordance with all other terms and conditions of this Agreement, Pigeonly hereby authorizes Customer, to access and use within Kings County, during the Term, the Services and such Pigeonly Materials as Pigeonly may supply or make available to Customer for the permitted uses by and through Authorized Users in accordance with the conditions and limitation set forth in this Agreement. In addition, Customer is authorized to:

a. generate, print, upload, download, store and distribute all data and other content as may result from any access to or use of the Services; and

b. access and use the Services for production and applications as may be necessary or useful for the effective use of the Services for the permitted uses hereunder.

4.2. Customer will not and will not knowingly permit any other person to access or use the Services or Pigeonly Materials except as expressly permitted by this Agreement and, in the case of Third-Party Materials, the applicable third-party license agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as this Agreement expressly permits:

a. rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make the Services or Pigeonly's Materials available to any third party that is not an Authorized User;

b. copy, modify or create derivative works or improvements of the Services or Pigeonly's Materials.

c. reverse engineer, disassemble, decompile, decode, adapt or otherwise attempt to derive or gain access to the source code of the Services or Pigeonly's Materials, in whole or in part;

d. bypass or breach any security device or protection used by the Services or Pigeonly Materials or access or use the Services or Pigeonly Materials other than by an Authorized User through the use of his or her own then valid access credentials (including without limitation, password guessing programs, decoders, password gatherers, keystroke loggers, cracking tools, packet sniffers, and/or encryption circumvention programs);

e. use or authorize the use of the Services or Data in any manner or for any purpose that is unlawful under applicable Law;

f. remove, delete, alter or obscure any trademarks, data, warranties or disclaimers, or any copyright, trademark, patent or other intellectual property or proprietary rights notices from any Services or Pigeonly Materials, including any copy thereof;

g. access or use the Services or Pigeonly Materials in any manner or for any purpose that infringes, misappropriates or otherwise violates any intellectual property law or other right of any third party, or that violates any applicable Law;

h. access or use the Services or Pigeonly's Materials for purposes of competitive analysis of the Services or Pigeonly's Materials, the development, provision or use of a competing software service or product or any other purpose that is to Pigeonly's detriment or commercial disadvantage; or

i. otherwise access or use the Services or Pigeonly's Materials beyond the scope of the authorization provided in this Agreement.

4.3. Customer hereby authorizes Pigeonly to perform the Services as described herein and in Attachments A and B, including receiving, opening, scanning, storing, and destroying mail items on Customer's behalf. Each Party believes and understands that entry into this Agreement is legal, but neither Party is relying on the other Party's representation or warranty to that effect, but instead is relying SOLELY upon the advice of its own legal counsel. Notwithstanding the

foregoing, in any legal dispute between the Parties arising from this Agreement, Customer agrees not to raise illegality of contract as a claim or defense for the purpose of avoiding payment of amounts due hereunder. Customer covenants that to its actual knowledge, Customer's use of the Services, and Customer's direction to Pigeonly regarding the Services, performance of this agreement, and all mail items Customer provides to Pigeonly, shall be in accordance with applicable law.

4.4. Customer acknowledges that Pigeonly will rely on Customer's identification of attorney-client communications and other confidential and potentially privileged communications and that Pigeonly will not perform its own screening for privileged or confidential information. Customer covenants that:

a. Customer shall properly identify to Pigeonly all attorney-client communications and other confidential and potentially privileged documents and communications;

b. Customer shall use Pigeonly's Legal Mail solution for all attorney-client communications and other confidential and potentially privileged communications and documents;

c. Customer shall not use Pigeonly's Non-legal Mail for any attorney-client communications or other confidential or potentially privileged documents; and

d. Customer shall not direct Pigeonly to open mail containing any confidential or potentially privileged communications or documents.

5. TERM AND TERMINATION

5.1. This Agreement will begin on December 5, 2023 ("Effective Date") and will remain in full force and effect until the July 31, 2024 unless terminated by either Party for cause, as described in Section 5.3. Except in the case of termination for breach by Pigeonly, within thirty (30) days of the date of termination, Customer must pay all undisputed amounts remaining unpaid for Services provided prior to the effective date of termination, plus related taxes and expenses, with any amounts disputed reasonably and in good faith to be paid as soon as practicable after the resolution of the dispute.

5.2. Renewal Option. Upon expiration of the Initial Term, this Agreement shall renew for up to four (4) successive one (1) year periods if agreed to between the Parties in writing.

5.3. Termination of Agreement. A Party may terminate this Agreement if:

a. the other Party is in default of a material obligation under this Agreement, and such default has not been cured within thirty (30) calendar days after receipt of written notice (specifying the default) from the non-defaulting Party. If the default specified in such notice is cured within the thirty (30) day period, the Agreement will remain in effect;

b. the non-terminating Party enters into liquidation (apart from a solvent liquidation for the purposes of amalgamation or reconstruction) or is dissolved or declared bankrupt or has a receiver, administrator or administrative receiver appointed over all or part of its assets or enters into an arrangement with its creditors or takes or suffers any similar action; or

c. either Party may terminate this Agreement at any time by providing one hundred twenty (120) days written notice to the other Party.

5.4. The terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the performance thereof by either Party hereunder will so survive the completion of the performance, cancellation, or termination of this Agreement, including without limitation, Confidentiality, Infringement and Limited Warranties.

6. PAYMENT TERM

6.1. Pricing, in consideration of Pigeonly's fulfillment of its obligations under this Agreement, Customer shall pay Pigeonly:

- a. Pricing will be at \$4.00 per month per Average Daily Population "ADP".
- b. The total number of inmates for billing purposes is calculated based on the facilities ADP - Average Daily Population. As of 03/24/2023, the average daily population ("ADP") is 454 and will be billed at \$21,792 per year (the "Fixed Price"). The Fixed Price shall be paid in full 30 days after contract signing and shall be deemed payment in full for the year notwithstanding that ADP may thereafter change.
- c. The Fixed Price will be adjusted each year 30 days prior to each year contract expiration date to determine the Average Daily population for the next contract year. The Fixed Price adjustment will be based upon ADP at the time the adjustment is made. Pigeonly may also, in its discretion, increase the price per ADP used to calculate the Fixed Price by not more than the increase over the past twelve (12) months in the Consumer Price Index for all Urban Consumers for the greater Los Angeles area, as determined by the Department of Labor.

6.2. Fee Timeline. If payment is not received within the forty-five (45) days of the invoice date as agree upon, Pigeonly shall be entitled to claim interest on the overdue amount at the lesser of the maximum rate of interest allowed by law or eight (8) percent, per annum, compounded monthly, calculated from the initial due date through the date of actual payment. This late penalty may not be waived by Customer. Interest shall not accrue on any amount disputed by Customer reasonably and in good faith (on written notice to Pigeonly within thirty (30) days of receipt of the affected invoice), provided any amount due is paid as soon as practicable after the dispute is resolved.

7. OWNERSHIP AND RESTRICTIONS

7.1. Reservation of Rights. Nothing in this Agreement grants the Customer any intellectual property rights, title or interest (including license rights, except to the extent of the limited license hereby conferred) in or to the Services, whether expressly, by implication, estoppel or otherwise. All rights, title and interest in and to the Services are and will remain with Pigeonly.

8. CONFIDENTIALITY

8.1. Confidential Information. From time to time during the Term of this Agreement, either Party (as the "Disclosing Party") may disclose or make available to the other Party (as the "Receiving Party") non-public, proprietary, confidential information about its business affairs, products, services, confidential intellectual property, trade secrets, third party confidential information, source code and other sensitive or proprietary information in oral, written, electronic or other intangible form marked or indicated as "Confidential" or "Proprietary" at the time of disclosure (collectively, "Confidential Information"). Confidential Information, however, shall not include:

- a. Information which is already generally available to the public;
- b. Information which hereafter becomes generally available to the public, except as a result of the direct or indirect action of the Receiving Party in breach of this Agreement;
- c. Information known to the Receiving Party or its Representatives on a non-confidential basis prior to receipt by the disclosing party;
- d. Information that is independently developed without access to the Disclosing Party's Confidential Information; and
- e. Information disclosed under legal compulsion (including, without limitation, under the Public Records Act); provided, however, that prior to a disclosure pursuant to an order or applicable law, the Receiving Party, to the extent permitted by law, promptly provides the other

Party written notice of such proposed disclosure in accordance with applicable laws and reasonably cooperates with the other party in its attempts to limit or prevent such disclosure. The Receiving Party shall use the Confidential Information solely for the performance of this Agreement and shall not disclose or permit access to Confidential Information other than to its Affiliates and its or their employees, officers, directors, attorneys, accountants and financial advisors (including insurers) (collectively, "Representatives") who:

- i. need to know such Confidential Information for the performance of this Agreement;
- ii. know of the existence and terms of this Agreement and
- iii. are bound by confidentiality obligations no less protective of the Confidential Information than the terms contained herein. These non-disclosure obligations shall survive the termination of this Agreement.

f. Information need not be marked "Confidential" to be considered Confidential Information. "Confidential Information" includes any Confidential Information disclosed prior to the effective date of this Agreement. Customer Confidential Information shall also be deemed to include data provided to Pigeonly through inmate mail regardless of marking or indication and shall not be subject to the exceptions referenced above. Any subcontractor retained shall adhere to this Section 8 as it regards to Confidential Information that comes into its possession.

g. It is agreed and understood that trade secrets, within the meaning of Civil Code Section 3426.1(d) or successor statute, are Confidential Information that are not subject to disclosure except in response to a subpoena or court order. If Pigeonly asserts any trade secret protection in any information provided to Customer, Pigeonly shall reasonably cooperate with Customer to provide information and evidence sufficient to substantiate the existence of a trade secret. Pigeonly agrees and understands that failure to provide such information and evidence upon request may necessitate disclosure by Customer in response to a request under the California Public Records Act. If Customer withholds Confidential Information from production in reliance on Pigeonly's assertion that the information constitutes a protected trade secret, then Pigeonly shall hold harmless, indemnify, and defend Customer in any litigation by a third party under the California Public Records Act alleging that the information should be produced.

8.2. Safeguarding Confidential Information. The Receiving Party shall safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect comparable information and no less than a reasonable degree of care. The Receiving Party shall promptly notify Disclosing Party of any unauthorized use or disclosure of Confidential Information and take all reasonable steps to cooperate with Disclosing Party to prevent further use or disclosure. The Receiving Party will be responsible for any breach of this Agreement caused by its Representatives. Customer is subject to freedom of information and open records acts and to open meetings acts and other applicable laws.

8.3. No Rights in Confidential Information. Customer and Pigeonly hereby acknowledge and agree that all Confidential Information of the other Party shall remain the sole and exclusive property of such other party and that the receiving party shall have no proprietary rights, title or interests therein except as otherwise provided in this Agreement.

8.4. Termination. Upon termination for any reason, or at any other time that Customer or Pigeonly demands, the other Party shall promptly deliver and/or certify destruction of Confidential Information, as appropriate, to the requesting Party all Confidential Information (copies and originals) of the requesting Party as may be in the other party's possession or under its control.

8.5. Data Privacy and Security

a. Undertaking by Pigeonly. Without limiting Pigeonly's obligation of confidentiality as further described herein, Pigeonly will use commercially reasonable efforts to establish and maintain a data privacy and information security program, including physical, technical, administrative, and organizational safeguards, that is designed to:

- i. ensure the security and confidentiality of any data of any kind or nature provided by Customer to Pigeonly (the "Data");
 - ii. protect against any anticipated threats or hazards to the security or integrity of the Data;
 - iii. protect against unauthorized disclosure, access to, or use of the Data;
 - iv. ensure the proper disposal of Data; and
 - v. ensure that all employees, agents, and subcontractors of Pigeonly, if any, comply with all of the foregoing.
- b. Unauthorized Access. Pigeonly will use commercially reasonable efforts to prohibit access to Customer Systems, in whole or in part, whether through Pigeonly's Systems or otherwise.
- c. Pigeonly Systems. Pigeonly will be responsible for the security, management and maintenance of information technology infrastructure, including all computers, software, databases, electronic systems (including database management systems) and networks used by or for Pigeonly to access the Customer Systems or otherwise in connection with the Services ("Pigeonly Systems").

9. INDEMNIFICATION AND INSURANCE

9.1. Each of the Parties agrees to indemnify and hold harmless the other Party and its affiliates and its directors, officers and employees from and against all claims, taxes, losses, damages, liabilities, costs and expenses, including attorneys' fees and other legal expenses, arising directly or indirectly from or in connection with:

- a. any negligent, reckless or intentionally wrongful act by a Party, its employees, contractors or agents,
- b. any breach by a Party, its' assistants, employees, contractors or agents of any of the covenants contained in this Agreement;
- c. any failure of Party to perform the Services in accordance with all applicable laws, rules and regulations;
- d. any violation or claimed violation of a third party's rights resulting in whole or in part from a Party's use of the Inventions or other deliverables under this Agreement:
 - i. that that the Services infringe any Intellectual Property Rights of a third party enforceable in the U.S. ("Infringement Claim"); or
 - ii. any claim for bodily injury or death of any individual, or the loss, damage or destruction of any real or personal property, resulting from the willful, negligent, reckless, fraudulent or intentional acts or omissions by a Party.

9.2 Indemnification Procedures. The Party seeking indemnification (the "Indemnified Party") will promptly notify the other Party ("Indemnifying Party") in writing of any Claims for which it seeks indemnification pursuant to this Section 9 and reasonably cooperate with the Indemnifying Party at the Indemnifying Party's sole cost and expense. The Indemnifying Party will immediately take control of the defense and investigation of such Claim and will employ counsel reasonably acceptable to the other party to handle and defend the same, at the Indemnifying Party's sole cost and expense. The Indemnifying Party will not settle any Claim on any terms or in any manner that adversely affects the rights of the other Party or any Indemnitee without the other Party's prior written consent, which will not be unreasonably withheld or delayed. The other Party and any Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing. A Party's failure to perform any obligations under this Section 9 will not relieve the Indemnifying Party of its obligations herein except to the extent that the Indemnifying Party can demonstrate that it has been prejudiced as a result of such failure.

9.3. Requirement to Obtain, Maintain, and Deliver Proof of Insurance Prior to Execution of the Agreement or Commencement of Work. Without limiting the County's right of indemnification from Contractor or any third parties, Contractor shall purchase and maintain the insurance policies described below (collectively, the "Insurance Policies") prior to the commencement of work or execution of this Agreement. Contractor shall maintain the Insurance Policies throughout the term of this Agreement.

9.4. Contractor shall deliver an Endorsed Additional Insured page from Contractor's insurance carrier to the County's Risk Manager guaranteeing said coverage to the County prior to the execution of this Agreement. Contractor shall deliver proof of insurance and all endorsements in accordance with this Agreement's Notice Section, or as otherwise agreed between the Parties. Failure to obtain, maintain, or provide the Insurance Policies or proof of the same is a material breach of this Agreement and may result in the immediate suspension or termination of this Agreement for cause, in addition to any other remedies the County may have under the law.

9.5. Endorsement of Policies. Contractor shall cause each of the Insurance Policies to be endorsed designating the County and its Board members, officials, officers, employees, and agents as additional insureds, using ISO form CG 20 26 or an alternate form that is at least as broad as form CG 20 26, as to any liability arising from the performance of this Agreement.

9.6. Insurance Limits.

Contractor shall obtain the Insurance Policies in the amounts set forth below, unless the County's Risk Manager approves other limits, in writing, prior to the execution of this Agreement:

a. Commercial General Liability - \$1,000,000.00 per occurrence/\$3,000,000 per aggregate.

b. Workers Compensation as required by the California Labor Code. Contractor shall cause the policy to be endorsed to waive the insurer's subrogation rights against the County.

c. Professional Liability covering Contractor's wrongful acts, errors, and omissions with limits not less than One Million Dollars (\$1,000,000) per occurrence or claim, and Three Million Dollars (\$3,000,000) annual aggregate limit.

9.7. Rating of Insurers. Contractor shall obtain insurance placed with admitted insurers rated by A.M. Best Co. as A:VII or higher. Lower rated, or approved but not admitted insurers, may be accepted upon prior approval of the County's Risk Manager.

9.8. Notice of Cancellation to the County and Payment of Premiums. Contractor shall cause each of the above insurance policies to be endorsed to provide the County with thirty (30) days' prior written notice of cancellation. The County is not liable for the payment of premiums or assessments on the policy. No cancellation provisions in the insurance policy shall be construed in derogation of the continuing duty of the Contractor to furnish insurance during the term of this Agreement.

10. LIMITATIONS OF LIABILITY

10.1. EXCLUSION OF INDIRECT DAMAGES. TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR THE FOLLOWING TYPES OF

LOSS: LOSS OF PROFITS OR REVENUE; LOSS OF BUSINESS OR GOODWILL, OR BUSINESS INTERRUPTION, OR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT, A SERVICE ORDER/STATEMENT OF WORK OR THE PERFORMANCE OR BREACH THEREOF, WHETHER BASED IN CONTRACT, TORT OR ANY OTHER THEORY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITIES OF SUCH CLAIM.

11. SERVICE LEVEL AGREEMENT

Attachment "A" is hereby incorporated by this reference except to the extent it conflicts with the provisions hereof.

12. IMPLEMENTATION PLAN

Attachment "B" is hereby incorporated by this reference except to the extent it conflicts with the provisions hereof.

13. REPRESENTATIONS AND LIMITED WARRANTIES.

13.1. Mutual Representations and Warranties. Each Party represents and warrants to the other Party that:

a. it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization or chartering.

b. it has, and throughout the Term and any Renewal Terms during which it does or is required to perform the Services will retain, the full right, power and authority to enter into this Agreement and perform its obligations hereunder.

c. the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate/ action of the Party; and

d. when executed and delivered by such Party, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such party in accordance with the Agreement terms, except as the enforceability thereof may be limited by bankruptcy and similar Laws affecting creditors' rights generally and by general equitable principles.

13.2 Intentionally left blank.

13.3. **DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, ALL SERVICES AND PIGEONLY MATERIALS ARE PROVIDED "AS IS" AND PIGEONLY HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, AND PROVIDER SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD-PARTY MATERIALS IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF THE THIRD-PARTY MATERIALS.**

13.4 Notwithstanding the foregoing, if the Services materially fail to perform in accordance with this Agreement, then Customer may terminate this Agreement on thirty (30) days' written notice to provide Pigeonly an opportunity to cure the defect or to provide a reasonable workaround. Customer shall not have any payment obligation for any part of the term remaining following termination. If Customer has pre-paid for Services, it shall be entitled to a refund on a pro rata basis for the remaining term following the date of termination.

13.5 To the extent permitted by Pigeonly's agreements with third parties, Pigeonly shall assign

to Customer any warranty rights or other service level commitments or guaranties that Pigeonly may possess in any third-party products or services used by it in the performance of this Agreement.

14. GENERAL PROVISIONS

14.1. Further Assurances. Each Party will, upon the reasonable request, and at the sole cost and expense, of the other party, promptly execute such documents and perform such acts as may be necessary to give full effect to the terms of this Agreement.

14.2. Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement will be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party will have authority to contract for or bind the other party in any manner whatsoever.

14.3. Notices. Any notice or other communication required or permitted by this Agreement to be given to a Party shall be in writing and shall be deemed effectively given (i) if delivered personally or by commercial messenger or courier service, (ii) when sent by confirmed facsimile, or (iii) three (3) days after deposit in the mail if mailed by U.S. registered or certified mail (return receipt requested), to the Party at the Party's address written below or at such other address as the Party may have previously specified by like notice.

CUSTOMER	PIGEONLY, INC.
Kings County Sheriff's Office Attn: Chrystal Thomas Address: 1570 Kings County Dr Hanford CA 93230 Phone: (559)852-4136 Email:Chrystal.thomas@co.kings.ca.us	Pigeonly, Inc. Attn: Alfonzo Brooks 2252 East Pama Lane Las Vegas, NV 89119 Alfonzo@pigeon.ly

14.4. Headings. The headings in this Agreement are for reference only and will not affect the interpretation of this Agreement.

14.5. Entire Agreement. This Agreement, including all other Schedules and Exhibits and any other documents, agreements or instruments incorporated by reference herein, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, and all subsequent oral understandings and agreements with respect to such subject matter. In the event of any conflict between the terms of this Agreement and those of any Schedule, Exhibit or other document, the following order of precedence will govern: (a) first, this Agreement, excluding its Exhibits and Schedules; (b) second, the Exhibits and Schedules to this Agreement as of the Effective Date; and (c) third, any other documents, instruments or agreements incorporated herein by reference. This Agreement and all Service Orders take precedence over any purchase order issued by Customer, which may be accepted by Service Provider for administrative convenience only.

14.6. Assignment. Neither Party will assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement without the other Party's prior written consent, which consent will not unreasonably be withheld or delayed. Any purported assignment, delegation or transfer in violation of this Section 14 is void. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective permitted

successors and assigns.

14.7. No Third-party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective permitted successors and permitted assigns and nothing herein, express or implied, is intended to or will confer on any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

14.8. Amendment and Modification; Waiver. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each Party hereto. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

14.9. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable according to Law, such invalidity, illegality or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto will negotiate in good faith to modify this Agreement so as to affect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

14.10. Governing Law.

a. This Agreement and all related documents, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the laws of the State of California.

b. Any legal suit, action or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted exclusively in the County of Kings, notwithstanding Code of Civil Procedure Section 394 or any other law, or in the Eastern District of California if filed in or removed to federal court, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by properly addressed first-class mail (postage prepaid) to Customer's Clerk of the Board of Supervisors or Pigeonly's registered agent for service of process within the State of California (as posted on the Secretary of State's website as of the date of service) will be effective service of process for any suit, action or other proceeding brought in any such court.

14.12. Equitable Relief. The Parties will be entitled to seek injunctive or other equitable relief whenever the facts or circumstances would permit a Party to seek equitable relief in a court of competent jurisdiction.

14.13. Attorneys' Fees. The prevailing Party in any litigation arising from this Agreement shall be entitled to recover its reasonable attorneys' fees and costs in accordance with Civil Code Section 1717, including reasonable expert witness fees.

**REMAINDER OF PAGE INTENTIONALLY BLANK
SIGNATURES ARE ON FOLLOWING PAGE**

IN WITNESS WHEREOF, the Parties hereto have executed this Consulting Agreement as of the date first written above.

COUNTY OF KINGS

CONTRACTOR NAME

By: _____
Richard Valle, Chairman
Kings County Board of Supervisors

By: Alfonzo Brooks
Name Alfonzo Brooks
Title Co-Founder/Head of Finance

ATTEST

By: _____
Catherine Venturella, Clerk of the Board

RISK MANAGEMENT APPROVED AS TO
INSURANCE

By: Sarah Poots 11/07/2023
Sarah Poots, Risk Manager

APPROVED AS TO FORM

By: Diane Freeman
Diane Freeman, County Counsel



COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 852-2362
Catherine Venturella, Clerk of the Board of Supervisors

AGENDA ITEM December 5, 2023

SUBMITTED BY: Sheriff's Office – David Robinson

SUBJECT: RESOLUTION WITH THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

SUMMARY:

Overview:

Over the past 21 years, the Sheriff's Office has annually received approval from the Board to receive Boating Safety and Enforcement (BS&E) financial aid from the California Department of Parks and Recreation, Division of Boating and Waterways to conduct boating safety and enforcement activities in Kings County.

Recommendation:

- a. Adopt a Resolution authorizing the participation in the Boating Safety and Enforcement Financial Aid Program operated by the California Department of Parks and Recreation, Division of Boating and Waterways for the performance period of July 1, 2024 through June 30, 2025;
- b. Authorize the Sheriff to sign the application for the Boating Safety and Enforcement Financial Aid Program operated by the California Department of Parks and Recreation, Division of Boating and Waterways.

Fiscal Impact:

This financial aid program will reduce the impact on the Fiscal Year 2024-2025 General Fund by \$94,277. The expenses and revenue related to this program are included in Budget Unit 222000. This program is also funded from boat taxes collected each fiscal year. Per the requirements of this program, the County must demonstrate that the local boat taxes are expended prior to receiving the financial aid from the State.

(Cont'd)

BOARD ACTION :

APPROVED AS RECOMMENDED: _____ OTHER: _____

I hereby certify that the above order was passed and adopted
on _____, 2023.

CATHERINE VENTURELLA, Clerk to the Board

By _____, Deputy.

Agenda Item

RESOLUTION WITH THE CALIFORNIA DEPARTMENT OF PARKS AND RECREATION

December 5, 2023

Page 2 of 2

BACKGROUND:

The purpose of the BS&E Financial Aid Program is to provide State financial aid to local governmental agencies whose waterways have high usage by transient boaters and an insufficient tax base to fully support a boating safety and enforcement program. The program is intended to augment existing local resources for boating safety and enforcement activities and is not intended to fully fund BS&E programs. Local participation in the program is entirely voluntary. Any local agency may opt not to participate in the program if they choose to spend their boat taxes on activities other than boating safety and enforcement activities. The funds will be utilized to offset the staff costs associated with patrolling the Kings River. These funds will also reimburse the County for equipment purchases and repairs associated with patrolling the Kings River and its tributaries. The new agreement is for the term of July 1, 2024, and ending June 30, 2025.

The Resolution has been reviewed and approved by County Counsel as to form.

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF KINGS, STATE OF CALIFORNIA

IN THE MATTER OF AUTHORIZING THE
SHERIFF’S OFFICE TO APPLY FOR AND
PARTICIPATE IN THE BOATING
SAFETY AND ENFORCEMENT FINANCIAL
AID PROGRAM AS OPERATED BY THE
CALIFORNIA DEPARTMENT OF PARKS
AND RECREATION, DIVISION OF
BOATING AND WATERWAYS
FOR FISCAL YEAR 2024-2025 /

RESOLUTION NO. _____

WHEREAS, the Kings County Sheriff’s Office (“Sheriff”) performs boating safety and enforcement activities as set forth in Section 6593.3 of Title 14 of the California Code of Regulations (“Section 6593.3”); and

WHEREAS, the California Department of Parks and Recreation, Division of Boating and Waterways (“Department”) operates a Boating Safety and Enforcement Financial Aid Program (“Program”) for local agencies that perform boating safety and enforcement activities as set forth in Section 6593.3; and

WHEREAS, submission of an application for funding under the Program requires the County of Kings (“County”) to comply with the requirements of Harbors and Navigation Code section 663.7, California Code of Regulations, title 14, section 6593.4; and

WHEREAS, participation in the Program and acceptance of funding under the Program requires the County of Kings (“County”) to comply with the requirements of Section 663.7 of the Harbors and Navigation Code; and

WHEREAS, the Sheriff would like to participate in the Department’s Program to augment the revenues received by the County of Kings (“County”) for boating safety and enforcement activities.

NOW, THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The Sheriff may apply for and participate in the Program as solicited by the Department to augment the revenues received by the County for boating safety and enforcement activities.
2. The Sheriff may participate in the Program as operated by the Department to augment the revenues received by the County for boating safety and enforcement activities.
3. The Sheriff of Kings County, David Robinson, or his designee, may sign the application and agreement for Program funding from the Department for boating safety and enforcement activities for Fiscal Year 2024-2025.

3. The Sheriff of Kings County, David Robinson, or his designee, may submit and sign invoices claiming reimbursement from the Department for Program funding for boating safety and enforcement activities for Fiscal Year 2024-2025.

3. The Sheriff of Kings County, David Robinson, or his designee, may receive funding from the Department for Program funding for Fiscal Year 2024-2025 for boating safety and enforcement activities.

3. The County shall expend not less than one hundred percent (100%) of the amount the County received from personal property taxes on vessels during Fiscal Year 2024-2025, as required under Harbors and Navigation Code section 663.7, subdivision (e).

3. Funding allocated to the County under Harbors and Navigation Code section 663.7, subdivision (a) shall be used only for boating safety and enforcement programs conducted within the County.

3. The County Finance Department – Auditor Division may certify the amount of prior year vessel taxes received by the County.

The foregoing resolution was adopted upon motion by _____, seconded by Supervisor _____ at a regular meeting held on the ____ day of _____, 2023, by the following vote:

- AYES: Supervisors
- NOES: Supervisors
- ABSENT: Supervisors
- ABSTAIN: Supervisors

Chairperson of the Board of Supervisors
County of Kings, State of California

IN WITNESS WHEREOF, I have set my hand this ____ day of _____, 2023.

Clerk of said Board of Supervisors



Application for Financial Aid -- 801 Fiscal Year 2024-2025

Agency Kings County Sheriff County Kings
 Address 1550 Kings County Dr. Hanford CA 93230

General Description of Boating Safety and Enforcement Programs:

(Give a comprehensive description of all programs in the County. If more space is needed, please attach a separate sheet).

Please see attached.

Waterways to be Patrolled					Estimated Density by Quarter ^{a/}			
Lakes, Open Ocean	Area in Square Miles	Primary Usage ^{b/}	Type(s) of Patrols ^{c/}	FT or PT ^{d/}	1st	2nd	3rd	4th
1. Tulare Lake	74.07		All	PT	175	175	188	185
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
11.								
12.								
13.								
14.								
Rivers	Length in Miles	Primary Usage ^{b/}	Type(s) of Patrols ^{c/}	FT or PT ^{d/}	1st	2nd	3rd	4th
1. Kings River	30	B	All	PT	40	30	30	40
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								

a/ Enter the highest number of boats on the waterway at any one time on any one day in each quarter, excluding holidays and holiday weekends.

b/ A = Fishing; B = Combined recreational boating activities (fishing, water skiing, pleasure boating, etc.)

c/ On-water, foot, truck/vehicle, and/or air

d/ FT = Full-time; PT = Part-time. If less than full-time, specify patrol schedule on a separate sheet.



Boating Safety and Enforcement Aid Program Proposed Program Costs -- 801.1 Fiscal Year 2024-2025

Agency Kings County Sheriff

Address 1550 Kings County Dr. Hanford CA 93230

County Kings

Proposed Program Costs

1. Personnel (Form 801.2)	\$89,078.75
2. Operations, Maintenance and Equipment (Form 801.3) ^{a/}	\$21,465.00
3. Total direct BS&E proposed program cost (2+3)	\$110,543.75
4. Administrative costs ^{b/}	\$5,527.19
5. Total BS&E proposed program costs (3+4)	\$116,070.94
6. Less: Boat Taxes (Form 801.4)	\$21,793.78
7. Total Net Proposed Program Cost (5-6)	\$94,277.16

a/ New applicant agencies should use 30% of personnel costs to estimate operations, maintenance and equipment costs in lieu of form 801.3.

b/ Administrative costs cannot exceed five percent of direct BS&E proposed program cost (line 3).

County Authorized Representative:

SIGNATURE

DATE

Dave Robinson, Sheriff

TYPED NAME AND TITLE

(559) 852-2795

TELEPHONE



Boating Safety and Enforcement Aid Program Proposed Personnel Costs -- 801.2 Fiscal Year 2024-2025

Agency Kings County Sheriff County Kings

Proposed Personnel Costs

Employee Compensation

Title (NO NAMES)	Grade	No. Hours or Months	Pay per Hour or Month	Total Compensation
1. Sergeant	Regular	50.00	\$47.04	\$2,352.00
2. Sergeant	Overtime	100.00	\$77.36	\$7,736.00
3. Senior Deputy	Regular	150.00	\$42.16	\$6,324.00
4. Senior Deputy	Overtime	200.00	\$68.18	\$13,636.00
5. Deputy I/II	Regular	200.00	\$38.73	\$7,746.00
6. Deputy I/II	Overtime	450.00	\$64.85	\$29,182.50
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21. Total		1,150.00		\$66,976.50

22. Average Customary Fringe Benefit Percent 33.00%

23. Total Proposed Personnel Costs \$89,078.75



Boating Safety and Enforcement Aid Program

Proposed Operations, Maintenance and Equipment Costs -- 801.3

Fiscal Year 2024-2025

Agency Kings County Sheriff County Kings

Patrol Vessels: Fuel _____ + Repair _____ + Storage _____ = \$ _____

Vehicles: Miles 3,000 Mileage Allowance 0.655 = 1,965.00

LIST OTHER O&M AND EQUIPMENT

1. Miscellaneous Boating Equipment	\$	6,000.00
2. Dive Gear Expenditures	\$	10,000.00
3. Uniforms	\$	3,500.00
4.	\$	
5.	\$	
6.	\$	
7.	\$	
8.	\$	
9.	\$	
10.	\$	
11.	\$	
12.	\$	
13.	\$	
14.	\$	
15.	\$	
16.	\$	
17.	\$	
18.	\$	
19.	\$	
20.	\$	
21.	\$	
22.	\$	
23.	\$	
24.	\$	
25.	\$	
Total	\$	<u>21,465.00</u>



Fiscal Year 2024-2025

Agency Kings County Sheriff
County Kings

Total estimated costs are offset by the estimated prior year vessel taxes received by the county to determine the maximum amount of financial aid you are eligible for. Vessel taxes received by the county represent 100% of the amount received by the county from the share of personal property taxes on vessels allocated to the County General Fund for boating safety and enforcement activities. Report on line 1 the estimated amount of prior year vessel taxes you anticipate you will receive.

1. Estimated boat tax revenues from prior fiscal year \$ 21,793.78

C e r t i f i c a t i o n

I attest that I am a duly authorized representative of the auditor's office of

Kings county/city;

and that this calculation results in the best estimate of boat tax revenues for the fiscal year noted.

[Signature]
SIGNATURE

October 2, 2023
DATE

Rob Knudson, Assistant Director of Finance
TYPED NAME AND TITLE

(559) 852-2464
TELEPHONE

A general description of Boating Safety and Enforcement Programs

The Kings County Sheriff's Office's Water Rescue Unit (WRU) is staffed by 16 Deputy Sheriffs who are certified Public Safety Divers with several certified in Swift Water Rescue Operations. Participation with the unit is ancillary to the primary duty of the involved Deputy Sheriff. Currently, a majority of our WRU staff have attended basic boating operation school with the remainder of team members to attend in the near future. Furthermore, several have also attended Boating under the Influence school (BUI) with plans on sending more in the near future.

The waterways in Kings County offer and are utilized by thousands of Kings County residents in the following manner annually and are in order of popularity:

1. Swimming/Fishing
2. Floating/Inner tubing /Rafting
3. Jet Skiing
4. Kayaking
5. Canoeing
6. Boating

The duties and operational aspects of our Water Rescue Unit are diverse, and furthermore, this diversity is representative of the County which we serve due to the unique water ways, geographical and environmental challenges we face here in Kings County. Up until 2023 there were no natural or man-made lakes that existed in Kings County and other than the Kings River, the only other waterways are irrigation canals, large and small, that feed directly from the two main forks of the Kings River. The only exception to this would be a portion of the river in the southern portion of our county that is a low point and fills up to create a shallow, marshy environment that is mostly inaccessible by powered watercraft of any type and typically utilized by citizens utilizing canoes, kayaks and other non-powered vessels.

Additionally, we are responsible for patrol, water rescue and recovery operations involving the California Aqueduct which is a major waterway that runs directly through our county and which originates in the San Joaquin Delta Region of Northern California. A large part of our Kings River agricultural and recreational waterway is supported by seasonal snow run off in the Spring and Summer months annually and Fall months during above average rain years.

Due to the unique aspects of our county, we have two main facets regarding Boating safety and water rescue operations.

The first aspect deals with patrol and enforcement of Boating and Waterways Laws, Vehicle Code Laws, Penal Code Laws and local county ordinances. This patrol is accomplished by means of WRU personnel conducting River and waterway patrol utilizing our boating and waterways grant provided jet skis and jet boat. These assets are and have been utilized regularly in Kings County Waterways to include, the Kings River, Kings River agriculture tributaries, low land

marsh areas in Kings County and Kings River water provided canals and reservoirs located in our county. Activities utilizing our patrol operations consist of boating/floating education, vessel inspections, applicable enforcement sections and waterway accident prevention operations.

The second aspect of our WRU/Boating Operations deals with citizen education regarding boating and waterway safety, boating under the influence (BUI) and accidental drowning prevention.

Our Boating/WRU is extremely active during the year presenting to local civic organizations, educational institutions which include grade school to college level participants, and to United States Navy personnel stationed at Lemoore Naval Air Station who represent a large number of citizens who utilize our waterways for recreational purposes. Some of the topics of education are life jacket safety, Water safety, Safe Boating/Floating education and Boating Under the Influence Prevention.

In the early part of 2023, record-breaking snowpack and storms flooded hundreds of acres of agricultural land. Our area sustained rainfall levels that the region had not seen since the early 1980's. Due to this, the local lakes and reservoirs surrounding our county could not store all the water flowing into them. This caused flooding throughout the surrounding counties, which eventually flowed into Kings County and flooded the former Tulare Lake Basin. The lake has been dry for decades and had been turned into farm land along with several residences. At its peak, the flooding covered approximately 69,475 acres (108.5 square miles). As of October 1, 2023, the flooding covers approximately 47,405 acres (74.07 square miles).

Many of the Boating/WRU calls for service this year were related to the flooding and we faced challenges we have not experienced in any of our members' tenure. Several calls consisted of subjects driving into the flooding and needing to be rescued when their vehicle was stranded as well as for looters paddling into flooded houses to burglarize and vandalize them.

Due to the amount of flooding, Kings County's main waterway which people use for recreation, the Kings River, was closed for most of the summer of 2023 due to the extremely high-water levels. These water levels made it dangerous for recreational use as well as threatening the integrity of the riverbanks. WRU Members were tasked with constantly accessing the banks and waterways as to the level of danger presented to potential recreational users as well as surrounding properties.

SMART NEWS

California's Long-Dry Tulare Lake Has Returned

Record-breaking snowpack and storms have flooded hundreds of acres of agricultural land in the state's San Joaquin Valley



Margaret Osborne

Daily Correspondent

July 11, 2023





Floodwaters cover a street in the reemerging Tulare Lake, in California's Central Valley, on April 14, 2023 in Corcoran, California. Mario Tama / Getty Images



A dormant lake in California has refilled for the first time in decades, after a series of intense storms and meltwater from record snowfall flooded the state.

The waters have inundated the long-dry basin of Tulare Lake, submerging hundreds of acres of cotton, tomato and pistachio fields, as well as homes, roads and power infrastructure, writes Dani Anguiano for the *Guardian*, causing hundreds of millions in damages. Experts estimate the water will remain for at least a year before it evaporates.



Located in the lowlands of the San Joaquin Valley in central California, Tulare Lake was once the largest body of freshwater west of the Mississippi. But in the 1800s, settlers drained the lake for farmland and forced the Tachi Yokut tribe, who lived on its shores, out of the area. The Tachi Yokut tribe once relied on the lake for food, shelter and as a trade route, reports Soreath Hok for NPR. Now, they live a few miles away on a reservation called the Santa Rosa Rancheria.

“This lake—this is who we are,” Robert Jeff, the vice chairman of the tribe, tells NPR. “This is where we belong—is right here. We’re lake people. Everything that we lived off of was offered to us by this lake.”

The lake now stretches about 111,000 acres, just a fraction of its historical size of nearly 512,000 acres (800 square miles), and it’s currently five to seven feet deep. Fish have populated its waters, and birds have flocked to its shores. But the lake’s return—which was welcomed with a ceremony from tribal members—also means devastation for some local families.

“We have to start over from the bottom,” Javier De La Cruz, an assistant manager at Foster Farms, tells the *Los Angeles Times*’ Robert Gauthier and Melissa Gomez.

De La Cruz lived on a ranch in the lake basin with his partner and seven children, and there, he helped care for more than a million chickens, per the publication. Then, on March 18, water flooded the property, and the family only had time to grab some clothes and documents before leaving their house.



In the valley, small family farms sit beside huge megafarms, and some people fear the effects of the flooding will be felt unequally, per the *Guardian's* Katharine Gammon.

Though it is considered private property, the lake has drawn visitors to its shoreline—but it isn't safe to swim or recreate in, per the *Guardian*. "It's farmland, underwater," Nate Ferrier of the Kings County sheriff's office tells the publication. "You've got diesel fuel, oil, manure, chemicals used to kill bugs and stuff. You've got a whole lot of things floating around."

But some environmentalists and members of the Tachi Yokut tribe are advocating for the lake to remain, which they say would help restore ecological balance and perhaps make the region more resilient to future floods with climate change, per the *L.A. Times'* Ian James. The Central Valley has been sinking and facing lower drinking water quality due to overpumping of groundwater for agriculture, per the publication. Farmers overdraw the aquifer by about 820,000 acre-feet per year, and the region has long experienced drought. Maintaining the lake, advocates say, could help replenish the aquifer.

"It's sad to see some of this stuff flooded and sad to see the homes hurt and sad to see the farming industry take a hit, but it's also quite an event. This lake was always here, and it's kind of supposed to be here, if you think about it," Ferrier tells NBC News' Evan Bush. "We all prayed for rain. We just all prayed a little too hard."



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Margaret Osborne ✕

Margaret Osborne is a freelance journalist based in the southwestern U.S. Her work has appeared in the *Sag Harbor Express* and has aired on *WSHU Public Radio*.

Filed Under: Agriculture, California, Drought, Farming, Flood, Native Americans, Water





COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 852-2362
Catherine Venturella, Clerk of the Board of Supervisors

AGENDA ITEM December 5, 2023

SUBMITTED BY: Administration – Kyria Martinez
California Public Finance Authority – Caitlin Lanctot

SUBJECT: APPROVING THE ISSUANCE OF QUALIFIED 501(C)(3) BONDS FOR
HEALTH CARE FACILITIES

SUMMARY:

Overview:

Section 147 (f)(2) of the Internal Revenue Code of 1986 requires that, in order for the interest on such obligations to be excluded from gross income to investors for federal income tax purposes, the applicable elected representatives of the host governmental unit must approve the issuance of debt. This hearing and approval process is referred to as a “TEFRA” hearing, after the Tax Equity and Fiscal Responsibility Act of 1983, the regulations for which were promulgated under the Tax Code changes of 1986.

Recommendation:

Adopt a Resolution approving the financing and the issuance of up to \$1,000,000,000 in qualified 501(c)(3) bonds for health care facilities by the California Public Finance Authority for Sharp HealthCare.

Fiscal Impact:

None. The County’s participation bears with it no cost or financial obligation, but serves as a public acknowledgement of the facilities to be financed by the host jurisdiction. The approval of the tax-exempt financing for the project will not place any financial obligations upon the County.

BACKGROUND:

The California Public Finance Authority (“CalPFA”) is a political subdivision of the State of California established under the Joint Exercise of Powers Act for the purpose of issuing tax-exempt conduit bonds for public and private entities throughout California. CalPFA was created by Kings County and the Housing

(Cont’d)

BOARD ACTION :

APPROVED AS RECOMMENDED: _____ OTHER: _____

I hereby certify that the above order was passed and adopted
on _____, 2023.

CATHERINE VENTURELLA, Clerk to the Board

By _____, Deputy.

Agenda Item

APPROVING THE ISSUANCE OF QUALIFIED 501(C)(3) BONDS FOR HEALTH CARE FACILITIES

December 5, 2023

Page 2 of 2

Authority of Kings County, California. CalPFA is empowered to promote economic, cultural, and community development opportunities that create temporary and permanent jobs, affordable housing, community infrastructure, and improve the overall quality of life in local communities.

Sharp HealthCare (the “Corporation”) has requested that CalPFA issue qualified 501(c)(3) bonds for health facilities in an amount not to exceed \$1,000,000,000 to finance and/or refinance the acquisition, renovation, construction, furnishing, equipping, and improvement of real property and healthcare facilities at various locations owned by the Corporation in San Diego, Chula Vista, La Mesa, and Poway, California (the “Project”). The financing will include up to \$400,000,000 for new money projects as well as up to \$600,000,000 to refinance prior projects.

A public hearing was held for this Project on December 5, 2023. The Board has been asked to approve the issuance of the bonds as the host governmental unit.

The obligations would be repaid solely from amounts received pursuant to the terms and provisions of the financing agreements to be executed by the borrower. The County would not be a party to the financing agreements. The obligations would not be secured by any form of taxation or any obligation of either the County or CalPFA. Neither would the obligations represent or constitute a general obligation of the County or CalPFA. The borrower must indemnify CalPFA, including the County. All legal documents will contain clear disclaimers that the obligations are not obligations of the County or the CalPFA but are paid only from funds provided by the borrower.

As announced in the published notice, this hearing is an opportunity for all interested persons to speak or to submit written comments concerning the proposal to issue the obligations and the nature of the facilities to be financed.

Participation by the County will not impact the County's appropriations limits and will not constitute any type of indebtedness by the County. Once the County holds the required public hearing and adopts the required resolution following the public hearing, no other participation of the County in the actions of the CalPFA or in the financing will be required.

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF KINGS, STATE OF CALIFORNIA

* * * * *

IN THE MATTER OF THE BOARD OF SUPERVISORS OF THE COUNTY OF KINGS APPROVING THE ISSUANCE BY THE CALIFORNIA PUBLIC FINANCE AUTHORITY OF ITS BONDS, IN ONE OR MORE SERIES, FROM TIME TO TIME PURSUANT TO A PLAN OF FINANCE, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,000,000,000, FOR THE PURPOSE OF FINANCING AND/OR REFINANCING THE ACQUISITION, RENOVATION, CONSTRUCTION, FURNISHING, EQUIPPING AND IMPROVEMENT OF REAL PROPERTY AND HEALTHCARE FACILITIES FOR SHARP HEALTHCARE AND CERTAIN OTHER MATTERS RELATING THERETO /

RESOLUTION NO. _____

WHEREAS, Sharp HealthCare (the “Corporation”), a California nonprofit public benefit corporation and organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 (the “Code”) has requested that the California Public Finance Authority (the “Authority”) participate in the issuance of its qualified 501(c)(3) bonds as defined in Section 145 of the Code, in one or more series, from time to time pursuant to a plan of finance, in an aggregate principal amount not to exceed \$1,000,000,000 (the “Bonds”), the proceeds of which are to be loaned to the Corporation to (i) finance and/or refinance the acquisition, renovation, construction, furnishing, equipping and improvement of real property and health care facilities located and/or to be located at or near the facility campuses at the locations in California listed on Exhibit A hereto (collectively, the “New Money Project”) and (ii) refinance bonds previously issued by the ABAG Finance Authority for Nonprofit Corporations or the Authority for the benefit of the Corporation and its affiliates, as well as corporate taxable bonds directly issued by the Corporation (collectively, the “Prior Bonds”). The proceeds of the Prior Bonds were used to finance and/or refinance the acquisition, renovation, construction, furnishing, equipping and improvement of real property and health care facilities located at or near the facility campuses at the locations in California listed on Exhibit A hereto (the “Prior Project” and, collectively with the New Money Project, the “Project”); and

WHEREAS, the health care facilities comprising the Project are owned and operated, or leased by and operated, by any of the Corporation and its affiliates, Sharp Memorial Hospital, Sharp Chula Vista Medical Center and Grossmont Hospital Corporation, each of which is a California nonprofit public benefit corporation and organization described in Section 501(c)(3) of the Code; and

WHEREAS, up to \$400,000,000 of the proceeds of the Bonds may be used by the entities listed in Exhibit A hereto to finance and/or refinance the New Money Project and up to \$600,000,000 of the proceeds of the Bonds may be used by the entities listed in Exhibit A to refinance the Prior Project; and

WHEREAS, the real property and facilities proposed to be financed and/or refinanced (collectively, the “Project”) are located within the County of San Diego; and

WHEREAS, the Authority is a joint powers authority created by the County of Kings (the County”) and the Housing Authority of Kings County and located in the County; and

WHEREAS, pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”), the issuance of the Bonds by the Authority must be approved by the County; and

WHEREAS, the Board of Supervisors of the County (the “Board of Supervisors”) is the elected legislative body of the County and is the applicable elected representative under Section 147(f) of the Code; and

WHEREAS, pursuant to Section 147(f) of the Code, the Board of Supervisors has, following notice duly given, through the Authority, held a public hearing regarding the issuance of the Bonds, and now desires to approve the issuance of the Bonds by the Authority; and

WHEREAS, the Board of Supervisors understands that its actions in holding this public hearing and in approving this Resolution do not obligate the County in any manner for payment of the principal, interest, fees or any other costs associated with the issuance of the Bonds, and said Board of Supervisors expressly conditions its approval of this Resolution on that understanding.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF KINGS HEREBY RESOLVES THAT:

Section 1. The Board of Supervisors hereby approves the issuance of the Bonds by the Authority, from time to time pursuant to a plan of finance, for the purposes of financing and/or refinancing the Project. It is the purpose and intent of the Board of Supervisors that this Resolution constitute approval of the issuance of the Bonds by the Authority for the purpose of Section 147(f) of the Code by the applicable elected representative of the governmental unit having jurisdiction over the area in which the Authority is located.

Section 2. The officers of the Board of Supervisors are hereby authorized and directed, jointly and severally, to do any and all things and execute and deliver any and all documents, certificates and other instruments which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this Resolution and the financing transaction approved hereby. Any actions heretofore taken by such officers are hereby ratified and approved.

Section 3. The Board of Supervisors expressly conditions its approval of this Resolution on its understanding that the County shall have no obligation whatsoever to pay any principal, interest, fees or any other costs associated with the Authority's issuance of the loan for the financing and/or refinancing of the Project.

Section 4. This Resolution shall take effect from and after its passage and approval.

The foregoing resolution was adopted upon motion by Supervisor _____, seconded by Supervisor _____ at a regular meeting held on the ___ day of _____, 2023, by the following vote:

AYES: Supervisors
NOES: Supervisors
ABSENT: Supervisors
ABSTAIN: Supervisors

Chairperson of the Board of Supervisors
County of Kings, State of California

IN WITNESS WHEREOF, I have set my hand this _____ day of _____, 2023.

Clerk of said Board of Supervisors

EXHIBIT A

New Money Project

- Health care facilities operated by Sharp Memorial Hospital (bond proceeds in an amount not to exceed \$400,000,000):
 - Health care facilities owned by Sharp HealthCare (“SHC”), and leased and operated by Sharp Memorial Hospital located at 7901 Frost Street, 2999, 3003 and 3075 Health Center Drive, and 7850 Vista Hill Avenue, San Diego.

Prior Project

- Health care facilities operated by SHC (bond proceeds in an amount not to exceed \$57,699,000):
 - Health care facilities, including related office and training facilities, owned and operated by SHC located at 8695 Spectrum Center Boulevard, 8520 Tech Way, 5651 Copley Drive, 7930, 8008 and 8010 Frost Street, and 8975 and 8985 Balboa Avenue, San Diego;
 - Health care-related office and warehouse facilities, leased and operated by SHC located at 3571 and 3572 Corporate Court and 3558 and 4000 Ruffin Road, San Diego.
- Health care facilities operated by Sharp Memorial Hospital (bond proceeds in an amount not to exceed \$274,795,000):
 - Health care facilities owned by SHC, and leased and operated by Sharp Memorial Hospital located at 7901 Frost Street, 2999, 3003 and 3075 Health Center Drive, and 7850 Vista Hill Avenue, San Diego;
 - Health care facilities owned and operated by Sharp Memorial Hospital located at 7989 and 8011 Linda Vista Road and 7944 Birmingham Drive, San Diego;
 - Health care facilities leased and operated by Sharp Memorial Hospital at 3475 Kenyon Street and 8003 Linda Vista Road, San Diego.
- Health care facilities operated by Sharp Chula Vista Medical Center (bond proceeds in an amount not to exceed \$184,844,000):
 - Health care facilities owned and operated by Sharp Chula Vista Medical Center located at 751, 752, 754, 765 and 769 Medical Center Court, Chula Vista.
- Health care facilities operated by Grossmont Hospital Corporation (bond proceeds in an amount not to exceed \$82,662,000):
 - Health care facilities leased and operated by Grossmont Hospital Corporation located at 5555 Grossmont Center Drive and 8851 and 8860 Center Drive, La Mesa;
 - Health care facilities owned and operated by Grossmont Hospital Corporation located at 5788 Lyden Way, San Diego and 5525 Grossmont Center Drive, La Mesa;
 - Health care facilities owned by Grossmont Hospital Foundation and operated by Grossmont Hospital Corporation located at 9472 Loren Street, La Mesa;
 - Health care facilities owned by SHC and operated by Grossmont Hospital Corporation located at 3850 Valley Vista Road, Bonita and 16752 Espola Road, Poway.



COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 852-2362
Catherine Venturella, Clerk of the Board of Supervisors

AGENDA ITEM December 5, 2023

SUBMITTED BY: Information Technology – John Devlin/Chris Verhaege

SUBJECT: SERVICE AGREEMENT FOR CORTEX BY PALO ALTO

SUMMARY:

Overview:

Kings County currently uses Trellix (formerly known as McAfee) for its endpoint anti-virus protection. This agreement expires on March 3, 2024. The Information Technology (IT) Department proposes a new one-year agreement with Palo Alto for Cortex XDR.

Recommendation:

Approve the agreement with Palo Alto for the Cortex XDR extended detection and response antivirus solution for the term of one year, effective upon execution by all parties.

Fiscal Impact:

The fiscal impact is \$104,590, and has been included in the budget for Fiscal Year 2023-24 in budget unit 195000 for the first year and for any subsequent years.

BACKGROUND:

Palo Alto's Cortex XDR solution pulls together information from network, endpoint, and cloud, giving Information Technology (IT) a 360-degree view of the security landscape. Cortex XDR's ability to integrate with hundreds of external solutions will allow IT to eliminate more blind spots than ever before. The integration with enforcement points allows for swift action when threats are detected, as well as enforce drive encryption on county workstations all through a single agent. The agreement has been reviewed and approved by County Counsel as to form. Risk Management cannot endorse the insurance policy until the County has been added to the policy. Vendor has insurance that is of adequate limits and types, however, will not add the County until the purchase is complete.

BOARD ACTION :

APPROVED AS RECOMMENDED: _____ OTHER: _____

I hereby certify that the above order was passed and adopted
on _____, 2023.

CATHERINE VENTURELLA, Clerk to the Board

By _____, Deputy.

END USER AGREEMENT

THIS AGREEMENT GOVERNS THE USE OF PALO ALTO NETWORKS PRODUCTS INCLUDING SOFTWARE-AS-A-SERVICE, CLOUD-DELIVERED SECURITY SERVICES, HARDWARE AND SOFTWARE. PRODUCT BRANDS INCLUDE, BUT ARE NOT LIMITED TO, CORTEX, PRISMA, AND STRATA.

THIS IS A LEGAL AGREEMENT BETWEEN YOU (REFERRED TO HEREIN AS “CUSTOMER”, “END USER”, “YOU” or “YOUR”) AND (A) PALO ALTO NETWORKS, INC. AND ITS AFFILIATES, 3000 TANNERY WAY, SANTA CLARA, CALIFORNIA 95054, UNITED STATES, IF YOU ARE LOCATED IN NORTH OR LATIN AMERICA; (B) PALO ALTO NETWORKS (NETHERLANDS) B.V. AND ITS AFFILIATES, OVAL TOWER, DE ENTRÉE 99-197, 5TH FLOOR, 1101 HE AMSTERDAM, IF YOU ARE LOCATED OUTSIDE NORTH OR LATIN AMERICA; OR (C) PALO ALTO NETWORKS PUBLIC SECTOR LLC, IF YOU ARE A UNITED STATES FEDERAL GOVERNMENT ENTITY OR ORGANIZATION (“PALO ALTO NETWORKS”).

BY DOWNLOADING, INSTALLING, REGISTERING, ACCESSING, EVALUATING OR OTHERWISE USING PALO ALTO NETWORKS PRODUCTS, YOU ACKNOWLEDGE AND AGREE THAT YOU ARE BOUND TO THIS AGREEMENT. IF YOU DO NOT ACCEPT ALL ITS TERMS, IMMEDIATELY CEASE USING OR ACCESSING THE PRODUCT. THIS AGREEMENT GOVERNS YOUR USE OF PALO ALTO NETWORKS PRODUCTS HOWEVER THEY WERE ACQUIRED INCLUDING WITHOUT LIMITATION THROUGH AN AUTHORIZED DISTRIBUTOR, RESELLER, ONLINE APP STORE, OR MARKETPLACE. MAINTENANCE AND SUPPORT SERVICES ARE GOVERNED BY THE END USER SUPPORT AGREEMENT WHICH IS HEREBY INCORPORATED BY REFERENCE INTO THIS as Attachment 1,

If you use a Product for proof of concept, trial, evaluation or other similar purpose (“Evaluations”), you may do so for 30 days only unless Palo Alto Networks issues an extension. Palo Alto Networks reserves the right to terminate Evaluations at any time. Upon expiration or termination of the Evaluation, you shall cease using the Product(s) provided for Evaluation and must return any Evaluation Hardware to Palo Alto Networks in the same condition as when first received, except for reasonable wear and tear. For Evaluations and products provided pursuant to a Product Donation Agreement, only sections 1, 2, 3, 7, 9, 10, and 11 of this Agreement shall apply, as well as section 6 for products provided pursuant to a Product Donation Agreement, and PALO ALTO NETWORKS DISCLAIMS ALL WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY AGAINST INFRINGEMENT OF THIRD-PARTY RIGHTS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

1. DEFINITIONS

“**Affiliate**” means any entity that Controls, is Controlled by, or is under common Control with Customer or Palo Alto Networks, as applicable, where “Control” means having the power, directly or indirectly, to direct or cause the direction of the management and policies of the entity, whether through ownership of voting securities, by contract or otherwise.

“**End User Data**” means data that is provided by or on behalf of You to Palo Alto Networks during the relationship governed by this Agreement. For the avoidance of doubt, End User Data does not include Systems Data.

“**Enterprise Program**” means a volume licensing arrangement, valid for a specified term, during which End User may access certain Software, Subscriptions, and/or related technical support.

“**Hardware**” means hardware-based products listed on Palo Alto Networks’ then-current price list or supplied by Palo Alto Networks regardless of whether a fee is charged for such hardware.

“**Product**” means, collectively, Hardware, Software, Subscription, or any combination thereof, regardless of whether or not the Product was procured under an Enterprise Program.

“**Published Specifications**” mean the applicable user manual, the WildFire Acceptable Use Policy found at <https://www.paloaltonetworks.com/resources/datasheets/wildfire-acceptable-use-policy>, the applicable Service Level Agreement found at <https://www.paloaltonetworks.com/services/support/support-policies.html>, and other corresponding materials published by Palo Alto Networks that are customarily made available to End Users of the applicable Product.

“**Software**” means any software embedded in Hardware and any standalone software that is provided without Hardware, including updates, regardless of whether a fee is charged for the use of such software.

“**Subscription**” means Software-as-a-Service and cloud-delivered security services, including updates, provided by Palo Alto Networks including, but not limited to, Cortex, Prisma, Threat Prevention, Advanced URL Filtering, WildFire, regardless of

whether a fee is charged for its use. Technical support, customer success plans, and professional services are not considered Subscriptions under this Agreement.

“**Systems Data**” means data generated and/or collected in connection with Your use of the Products, such as logs, session data, telemetry data, support data, usage data, threat intelligence or actor data, statistics, aggregated data, netflow data, copies of potentially malicious files detected by the Product, and derivatives thereof.

2. USE AND RESTRICTIONS

a. Software Use Grant

This section 2a applies to Software only. Subject to your compliance with this Agreement, Palo Alto Networks grants you a limited, non-exclusive right to use the Software:

- i. in accordance with Published Specifications for the Product;
- ii. solely within the scope of the license purchased (e.g., number of users); and either:
 - solely for your internal use, unless agreed otherwise in a separate written contract with Palo Alto Networks; or
 - through your third-party contractor providing IT services solely for your benefit, subject to their compliance with this Agreement.

All other rights in the Software are expressly reserved by Palo Alto Networks.

b. Access to Subscriptions

This section 2b applies to Subscriptions only. During the term of the Subscriptions purchased, Palo Alto Networks will use commercially reasonable efforts to make them available 24 hours a day, 7 days a week except for published downtime or any unavailability caused by circumstances beyond our control including, but not limited to, a force majeure event described in section 11g below. Palo Alto Networks grants you a non-exclusive right to access and use the Subscriptions:

- i. in accordance with Published Specifications for the Product;
- ii. solely within the usage capacity purchased (e.g., number of workloads); and either:
 - solely for your internal use, unless agreed otherwise in a separate written contract with Palo Alto Networks; or
 - through your third-party contractor providing IT services solely for your benefit, subject to their compliance with this Agreement.

All other rights to the Subscriptions are expressly reserved by Palo Alto Networks.

c. Use Restrictions

You shall not:

- i. Use any Product that is procured under a Lab or NFR (not for resale) SKU in a production environment.
- ii. Use the Products beyond the scope of the license and/or capacity purchased;
- iii. Modify, translate, adapt or create derivative works from the Products, in whole or in part;
- iv. disassemble, decompile, reverse engineer or otherwise attempt to derive the source code, methodology, analysis, or results of the Products, in whole or in part, unless expressly permitted by applicable law in the jurisdiction of use despite this prohibition;
- v. Remove, modify, or conceal any product identification, copyright, proprietary or intellectual property notices or other such marks on or within the Product;
- vi. Disclose, publish or otherwise make publicly available any benchmark, performance or comparison tests that you (or a third-party contracted by you) run on the Products, in whole or in part;
- vii. Transfer, sublicense, or assign your rights under this Agreement to any other person or entity except as expressly provided in section 2d below, unless expressly authorized by Palo Alto Networks in writing;
- viii. Sell, resell, sublicense, assign, or otherwise transfer the Products or any rights or interests in the Products to any third party except in accordance with the express terms herein. Products purchased from unauthorized resellers or other unauthorized entities shall be subject to the [Palo Alto Networks license transfer procedure \(https://www.paloaltonetworks.com/support/support-policies/secondary-market-policy.html\)](https://www.paloaltonetworks.com/support/support-policies/secondary-market-policy.html);
- ix. Use Software that is licensed for a specific device, whether physical or virtual, on another device, unless expressly authorized by Palo Alto Networks in writing;
- x. Duplicate the Software, its methodology, analysis, or results unless specifically permitted in accordance with Published Specifications for such Software or for the specific purpose of making a reasonable number of archival or backup copies, and provided in both cases that you reproduce in the copies the copyright and other proprietary notices or markings that appear on the original copy of the Software as delivered to you;
- xi. Use the Subscriptions to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy or intellectual property rights;

- xii. Use the Subscriptions in any manner not authorized by the Published Specifications for the Product;
- xiii. Interfere with, disrupt the integrity or performance of, or attempt to gain unauthorized access to the Subscriptions, their related systems or networks, or any third-party data contained therein; or
- xiv. Provide access to or otherwise make the Products or the functionality of the Products available to any third party through any means, including without limitation, by uploading the Software to a network or file-sharing service or through any hosting, managed services provider, service bureau or other type of service unless specifically permitted by the Published Specifications or agreed otherwise in a separate managed services agreement with Palo Alto Networks.

d. Affiliates

If you purchase Product for use by your Affiliate, you shall:

- i. provide the Affiliate with a copy of this Agreement;
- ii. ensure that the Affiliate complies with this Agreement;
- iii. be responsible and liable for any breach of this Agreement by such Affiliate; and
- iv. where applicable, be responsible and liable for any local law that imposes any tariffs, fees, penalties, or fines arising from your Affiliates' use of the Product in such jurisdictions.

e. Authentication Credentials

You shall keep accounts and authentication credentials providing access to Products secure and confidential. You must notify Palo Alto Networks without undue delay about any misuse of your accounts or authentication credentials.

3. OWNERSHIP

Palo Alto Networks and its suppliers retain all rights to intellectual and intangible property relating to the Product, including but not limited to copyrights, patents, trade secret rights, and trademarks and any other intellectual property rights therein unless otherwise indicated. You shall not delete or alter the copyright, trademark, or other proprietary rights notices or markings that appear on the Product. To the extent you provide any suggestions or comments related to the Products, Palo Alto Networks shall have the right to retain and use any such suggestions or comments in current or future products or subscriptions, without your approval or compensation to you.

4. PAYMENT AND TAXES

(Sub-sections 4(a) and 4(b) do not apply to you if you purchased Product from an authorized distributor or reseller)

a. Fees

Applicable fees will be set forth on the website or based on a quotation at the time of purchase or in the applicable invoice. Note, however, that fees which are payable in advance for volume or capacity usage (e.g., number of accounts, credits, endpoints, devices, points, seats, terabytes of data, tokens, users, workloads, etc.) must be reconciled with actual usage at the end of each month or applicable service period. Palo Alto Networks reserves the right to perform true-up reconciliation and charge for any usage above the volume or capacity purchased. You will issue a purchase order to Palo Alto Networks and once accepted by Palo Alto Networks, all purchase orders shall be non-cancellable, non-refundable, and non-returnable. Unless you have chosen monthly billing (if available), fees will be due net thirty (30) days from invoice date. All sums due and payable that remain unpaid after any applicable cure period herein will accrue interest at the highest rate permissible by applicable law. Palo Alto Networks reserves the right to assign its right to receive payments hereunder to a third party with notice but without your consent. For purposes of such assignment, such third party shall be considered a third-party beneficiary of the payment obligation under this Agreement. All fees are non-refundable unless otherwise specified.

b. Taxes

Prices quoted are exclusive of all sales, use, value-added, goods and services, withholding and other taxes or duties. You will pay or self-assess all taxes and duties assessed in connection with this Agreement and its performance, except for taxes payable on Palo Alto Networks' income. To the extent that any amounts payable by you are subject to withholding taxes, the amount payable shall be grossed up such that the amount paid to Palo Alto Networks net of withholding taxes equals the amount invoiced by Palo Alto Networks. If you pay any withholding taxes based on payments made by you to Palo Alto Networks hereunder, you will furnish Palo Alto Networks with written documentation of all such tax payments, including receipts and other customary documentation, to demonstrate to the relevant tax authorities that you have paid such taxes. If applicable, you shall also provide Palo Alto Networks with appropriate VAT/GST registration numbers and other documentation satisfactory to the applicable taxing authorities to substantiate any claim of exemption from any tax or duties. You agree to indemnify Palo Alto Networks from liabilities, damage, costs, fees and expenses, arising out of or

resulting from any third-party claims based on or otherwise attributable to your breach of this section 4b. If you are located in Australia, the terms in this section 4 shall be binding between you and Palo Alto Networks (Australia) Pty Ltd.

c. Third- Party Payments

Palo Alto Networks may at its discretion terminate or suspend your access to or use of Software or Subscriptions if you are in default with any payment obligations concerning the Product due to Palo Alto Networks, an Affiliate of Palo Alto Networks, or an authorized distributor or reseller or any third-party finance company that financed the Product on your behalf.

5. TERM; TERMINATION; AND EFFECT OF TERMINATION

This Agreement is effective until terminated or, as applicable, in accordance with the term of your Software term or Subscription. Either party may terminate this Agreement with or without fault at any time on thirty (30) days' notice to the other party. Upon termination, you shall immediately cease using the Product. Palo Alto Networks reserves the right to terminate or suspend Customer's access to or use of Software or Subscriptions if Palo Alto Networks reasonably believes that Customer is using the services in manner or for a purpose that is likely to cause harm to Palo Alto Networks or a third party.

6. WARRANTY, EXCLUSIONS AND DISCLAIMERS

a. Warranty

Palo Alto Networks warrants that:

- i. Hardware shall be free from defects in material and workmanship for one (1) year from the date of shipment;
- ii. Software shall substantially conform to Palo Alto Networks' Published Specifications for three (3) months from fulfillment; and
- iii. Subscriptions shall perform materially to Published Specifications for the entire duration of the selected term.

As your sole and exclusive remedy and Palo Alto Networks' and its suppliers' sole and exclusive liability for breach of warranty, Palo Alto Networks shall, at its option and expense, repair or replace the Hardware or correct the Software or the Subscriptions, as applicable. All warranty claims must be made on or before the expiration of the warranty period specified herein, if any. Replacement Products may consist of new or remanufactured parts that are equivalent to new. All Products that are returned to Palo Alto Networks and replaced become the property of Palo Alto Networks. Palo Alto Networks shall not be responsible for your or any third party's software, firmware, information, or memory data contained in, stored on, or integrated with any Product returned to Palo Alto Networks for repair or upon termination, whether under warranty or not. You will pay the shipping costs for return of Products to Palo Alto Networks. Palo Alto Networks will pay the shipping costs for repaired or replaced Products back to you.

b. Exclusions

The warranty set forth above shall not apply if the failure of the Product results from or is otherwise attributable to:

- i. repair, maintenance or modification of the Product by persons other than Palo Alto Networks or its designee;
- ii. accident, negligence, abuse or misuse of a Product;
- iii. use of the Product other than in accordance with Published Specifications;
- iv. improper installation or site preparation or your failure to comply with environmental and storage requirements set forth in the Published Specifications including, without limitation, temperature or humidity ranges; or
- v. causes external to the Product such as, but not limited to, failure of electrical systems, fire or water damage.

c. Disclaimers

EXCEPT FOR THE WARRANTIES EXPRESSLY STATED AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE PRODUCTS ARE PROVIDED "AS IS". PALO ALTO NETWORKS AND ITS SUPPLIERS MAKE NO OTHER WARRANTIES AND EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. PALO ALTO NETWORKS DOES NOT WARRANT THAT (I) THE PRODUCTS WILL MEET YOUR REQUIREMENTS, (II) THE USE OF PRODUCTS WILL BE UNINTERRUPTED OR ERROR-FREE, OR (III) THE PRODUCTS WILL PROTECT AGAINST ALL POSSIBLE THREATS WHETHER KNOWN OR UNKNOWN.

7. LIMITATION OF LIABILITY

a. Disclaimer of Indirect Damages

To the fullest extent permitted by applicable law, in no event shall either party or Palo Alto Networks' suppliers be liable for any special, indirect, incidental, punitive, exemplary or consequential damages of any kind (including but not limited to loss

of business, data, profits, or use or for the cost of procuring substitute products, services or other goods), arising out of or relating to the Products to which this Agreement relates, regardless of the theory of liability and whether or not each party was advised of the possibility of such damage or loss.

b. Direct Damages

To the fullest extent permitted by applicable law, in no event shall the total liability of either party or Palo Alto Networks' suppliers, from all claims or causes of action and under all theories of liability arising out of or relating to the Products to which this Agreement relates, exceed the greater of one million United States dollars or the total amount you paid for the entire term of the Subscription or Enterprise Program on which the claim is based. The foregoing limitation in this section 7b shall not apply to liability arising from:

- i. death or bodily injury;
- ii. sections 2 (Use and Restrictions) and 8 (Indemnification); and
- iii. Customer's payment obligations for the Product and related services, if any.

8. INDEMNIFICATION

a. Indemnification and Procedure

Palo Alto Networks will defend, at its expense, any third-party action or suit against you alleging that a Product infringes or misappropriates such third party's patent, copyright, trademark, or trade secret (a "Claim"), and Palo Alto Networks will pay damages awarded in final judgment against you or agreed to in settlement by Palo Alto Networks to the extent attributable to any such Claim; provided that you (i) promptly notify Palo Alto Networks in writing of the Claim; (ii) give Palo Alto Networks sole control of the defense and settlement of the Claim; and (iii) reasonably cooperate with Palo Alto Networks' requests for assistance with the defense and settlement of the Claim. Palo Alto Networks will not be bound by any settlement or compromise that you enter into without Palo Alto Networks' prior written consent.

b. Remedy

If a Product becomes, or in Palo Alto Networks' opinion is likely to become, the subject of a Claim, then Palo Alto Networks may, at its sole option and expense:

- i. procure the right for you to continue using the Product;
- ii. replace or modify the Product to avoid the Claim; or
- iii. if options (i) and (ii) cannot be accomplished despite Palo Alto Networks' reasonable efforts, then Palo Alto Networks may accept return of the Product and grant you credit for the price of the Product as depreciated on a straight-line five (5) year basis, commencing on the date you received such Product or, for Subscriptions, grant you credit for the portion of the Subscription paid but not used.

c. Exceptions

Palo Alto Networks' obligations under this section 8 shall not apply to the extent any Claim results from or is based on:

- i. modifications to a Product made by a party other than Palo Alto Networks or its designee;
- ii. the combination, operation, or use of a Product with hardware or software not supplied by Palo Alto Networks, if a Claim would not have occurred but for such combination, operation or use;
- iii. failure to use (1) the most recent version or release of a Product or (2) an equally compatible and functionally equivalent, non-infringing version of a Product supplied by Palo Alto Networks to address such Claim;
- iv. Palo Alto Networks' compliance with your explicit or written designs, specifications or instructions; or
- v. use of a Product not in accordance with Published Specifications.

THE FOREGOING TERMS STATE PALO ALTO NETWORKS' SOLE AND EXCLUSIVE LIABILITY AND YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY THIRD-PARTY CLAIMS OF INTELLECTUAL PROPERTY INFRINGEMENT OR MISAPPROPRIATION.

9. CONFIDENTIALITY

"**Confidential Information**" means the non-public information that is exchanged between the parties, provided that such information is identified as confidential at the time of initial disclosure by the disclosing party ("**Discloser**"), or disclosed under circumstances that would indicate to a reasonable person that the information ought to be treated as confidential by the party receiving such information ("**Recipient**"). Confidential Information does not include Systems Data. Confidential Information also does not include information that Recipient can prove by credible evidence:

- i. Was in the public domain at the time it was communicated to Recipient;
- ii. Entered the public domain subsequent to the time it was communicated to Recipient through no fault of Recipient;
- iii. Was in Recipient's possession free of any obligation of confidentiality at the time it was communicated to Recipient;

- iv. Was disclosed to Recipient free of any obligation of confidentiality; or
- v. Was developed by Recipient without use of or reference to Discloser's Confidential Information.

Each party will not use the other party's Confidential Information, except as necessary for the performance of this Agreement, and will not disclose such Confidential Information to any third party, except to those of its employees and subcontractors who need to know such Confidential Information for the performance of this Agreement, provided that each such employee and subcontractor is subject to use and disclosure restrictions that are at least as protective as those set forth herein. Recipient shall maintain the confidentiality of Discloser's Confidential Information using the same effort that it ordinarily uses with respect to its own confidential information of similar nature and importance, but no less than reasonable care. The foregoing obligations will not restrict Recipient from disclosing Discloser's Confidential Information:

- a. Pursuant to an order issued by a court, administrative agency, or other governmental body, provided that the Recipient gives reasonable notice to Discloser to enable it to contest such order;
- b. On a confidential basis to its legal or professional financial advisors;
- c. As required under applicable securities regulations; or
- d. As otherwise required by law, including the California Public Records Act, provided reasonable notice is given by Recipient to Discloser to enable it to see appropriate emergency relief.

The foregoing obligations of each Party shall continue for the period terminating three (3) years from the date on which the Confidential Information is last disclosed, or the date of termination of this Agreement, whichever is later.

10. END USER DATA AND DATA PROTECTION

Palo Alto Networks will process End User Data solely for the purposes of fulfilling its obligations under the terms of this Agreement. To the extent Palo Alto Networks processes personal data, as defined by applicable data protection laws, such personal data will be processed in accordance with the [Data Processing Agreement](#), which is incorporated by reference herein.

11. GENERAL

a. Assignment

Neither party may assign or transfer this Agreement or any obligation herein without the prior written consent of the other party, except that, upon written notice, Palo Alto Networks may assign or transfer this Agreement or any obligation herein to its Affiliate, or an entity acquiring all or substantially all assets of Palo Alto Networks, whether by acquisition of assets or shares, or by merger or consolidation without your consent. Any attempt to assign or transfer this Agreement (except as permitted under the terms herein) shall be null and of no effect. For purposes of this Agreement, a change of Control will be deemed to be an assignment. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

b. Auditing End User Compliance

You shall retain records pertaining to Product usage. You grant to Palo Alto Networks and its independent advisors the right to examine such records no more than once in any twelve-month period solely to verify compliance with this Agreement. In the event such audit reveals non-compliance with this Agreement, you shall promptly pay the appropriate license fees, plus reasonable audit costs, as determined by Palo Alto Networks.

c. Authorization Codes; Grace Periods

Where applicable, you will be able to download Software via the server network located closest to you. Your Product may require an authorization code to activate or access Subscriptions and support. The authorization codes will be issued at the time of order fulfillment. The Subscription, warranty or support term will commence in accordance with the grace period policy at <https://www.paloaltonetworks.com/support/support-policies/grace-period.html>

d. Compliance with Laws; Export Control

You shall comply with all applicable laws in connection with your activities arising from this Agreement. You further agree that you will not engage in any illegal activity and you acknowledge that Palo Alto Networks reserves the right to notify you or appropriate law enforcement in the event of such illegal activity. Both parties shall comply with the U.S. Export Administration Regulations, and any other applicable export laws, restrictions, and regulations to ensure that the Product and any technical data related thereto is not exported or re-exported directly or indirectly in violation of or used for any purposes prohibited by such laws and regulations.

e. Cumulative Remedies

Except as expressly set forth in this Agreement, the exercise by either party of any of its remedies will be without prejudice to any other remedies under this Agreement or otherwise.

f. Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understanding and communications between them with respect to the subject matter hereof. Any terms or conditions contained in your purchase order or other ordering document that are inconsistent with or in addition to the terms and conditions of this Agreement are hereby rejected by Palo Alto Networks and shall be deemed null and of no effect.

g. Force Majeure

Neither party shall be responsible for any cessation, interruption, or delay in the performance of its obligations hereunder due to earthquake, flood, fire, storm, natural disaster, act of God, war, terrorism, armed conflict, labor strike, lockout, boycott, availability of network and telecommunications services or other similar events beyond its reasonable control.

h. Governing Law

If you are located in North or Latin America, this Agreement shall be governed by and construed in accordance with the laws of the state of California, excluding its conflict of laws principles. Any legal action or proceeding arising under this Agreement will be brought exclusively in the state or federal courts located in Santa Clara county, California. If you are located outside North or Latin America, this Agreement shall be governed by and construed in accordance with the laws of the Netherlands, excluding its conflict of laws principles. Any legal action or proceeding arising under this Agreement will be brought exclusively before the District Court of Amsterdam, the Netherlands. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

i. Headings

The headings, including section titles, are given solely as a convenience to facilitate reference. Such headings shall not be deemed in any way material or relevant to the construction or interpretation of this document or any of its provisions.

j. Notices

All notices shall be in writing and delivered by overnight delivery service or by certified mail sent to the address published on the respective parties' websites or the address specified on the relevant order document (attention: Legal Department), and in each instance will be deemed given upon receipt.

k. Open Source Software

The Products may contain or be provided with components subject to the terms and conditions of open source software licenses ("**Open Source Software**"). A list of Open Source Software can be found at <https://www.paloaltonetworks.com/documentation/oss-listings/oss-listings.html>. These Open Source Software license terms are consistent with the license granted in section 2 (Use and Restrictions) and may contain additional rights benefiting you. Palo Alto Networks represents and warrants that the Product, when used in conformance with this Agreement, does not include Open Source Software that restricts your ability to use the Product nor requires you to disclose, license, or make available at no charge any material proprietary source code that embodies any of your intellectual property rights.

l. Reciprocal Waiver of Claims Related to United States SAFETY Act

Where a Qualified Anti-terrorism Technology (the "**QATT**") has been deployed in defense against, response to or recovery from an "act of terrorism" as that term is defined under the SAFETY Act, Palo Alto Networks and End User agree to waive all claims against each other, including their officers, directors, agents or other representatives, arising out of the manufacture, sale, use or operation of the QATT, and further agree that each is responsible for losses, including business interruption losses, that it sustains, or for losses sustained by its own employees resulting from an activity arising out of such act of terrorism.

m. Marketing

Customer hereby grants to Palo Alto Networks the right to use Customer's name in marketing and sales materials and communications solely to identify Customer as a Palo Alto Networks customer. Other than as expressly stated herein, neither party shall use the other party's name, logo or trademarks without the prior written permission of the other party.

n. Survival

Sections regarding license restrictions, ownership, term and termination, U.S. Government End Users, limitations of liability, governing law, indemnification, and this General section shall survive termination of this Agreement.

o. U.S. Government End Users

This section applies to United States Government end users only and does not apply to any other end users. The Software and its documentation are "commercial computer software" and "commercial computer software documentation," respectively; as such terms are used in FAR 12.212 and DFARS 227.7202. If the Software and its documentation are being

acquired by or on behalf of the U.S. Government, then, as provided in FAR 12.212 and DFARS 227.7202-1 through 227.7202-4, as applicable, the U.S. Government's rights in the Software and its documentation shall be as specified in this Agreement. If any term or condition set forth in this Agreement:

- i. allows for the automatic termination of the Government's license rights or maintenance of services;
- ii. allows for the automatic renewal of services and/or fees;
- iii. allows for the Government to pay audit costs; and/or
- iv. requires the governing law to be anything other than Federal law, then such term and condition shall not apply to the U.S. Government, but shall continue to apply to prime contractors and subcontractors of the Government.

Furthermore, nothing contained in this Agreement is meant to diminish the rights of the U.S. Department of Justice as identified in 28 U.S.C. Section 516. Finally, to the extent any term and condition set forth in this Agreement is contrary to U.S. Federal procurement law, then such term and condition shall not apply to the U.S. Government, but shall continue to apply to prime contractors and subcontractors of the government.

p. Waiver and Severability

The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision, notwithstanding the passage of time. Any waiver or amendment of any provision of this Agreement will be effective only if in writing and signed by authorized representatives of both parties. If any provision of this Agreement is held to be unenforceable or invalid, that provision will be enforced to the maximum extent possible and the other provisions will remain in full force and effect to the extent necessary to effectuate the original intent of the parties as closely as possible.

q. Miscellaneous. There are to third-party beneficiaries of this Agreement. This Agreement may be signed electronically and in counterparts, each of which shall be deemed an original. An electronic copy or other facsimile of this Agreement shall be treated as an original.

r. WildFire: U.S. Government

Where End User is a U.S. Government contractor using or accessing WildFire: U.S. Government malware prevention service, End User certifies that now and so long as it uses or accesses WildFire: U.S. Government service:

- v. Only U.S. citizens will be permitted to access WildFire: U.S. Government for administration and configuration;
- vi. End User holds an active contract or subcontract with the U.S. Federal Government and has a need to exchange e-mail, documents and other forms of communication with the U.S. Federal Government under a contract or subcontract;
- vii. End User shall cease using or accessing WildFire: U.S. Government when it no longer has an active contract or subcontract with the U.S. Federal Government; and
- viii. End User will abide by the confidentiality provisions contained within this Agreement.

Executed as of _____, 2023, the signatories hereof hereby representing and warranty their authority to bind their responsive parties:

CUSTOMER
County of Kings, Caliofrnia

By: _____
Its: _____
Name: _____

PALO ALTO NETWORKS

By: _____
Its: [president, CEO, chair, or VP]
Name: _____

By: _____
Its: [ast./CFO, treasurer, or secretary]
Name: _____

APPROVED AS TO FORM

BY: *Diane Freeman*
Kings County Counsel

APPROVED AS TO INSURANCE

By: _____



Attachment 1 END USER SUPPORT AGREEMENT (“EUSA”)

THIS EUSA SUPPLEMENTS THE PALO ALTO NETWORKS [END USER LICENSE AGREEMENT](#) BETWEEN YOU (REFERRED TO HEREIN AS “CUSTOMER”, “END USER”, “YOU” or “YOUR”) AND (A) PALO ALTO NETWORKS, INC. AND ITS AFFILIATES, 3000 TANNERY WAY, SANTA CLARA, CALIFORNIA 95054 UNITED STATES, IF YOU ARE LOCATED IN NORTH OR LATIN AMERICA; (B) PALO ALTO NETWORKS (UK) LTD AND ITS AFFILIATES, 22 BISHOPGATE, LEVEL 55, LONDON, EC2N 4BQ, ENGLAND, IF YOU ARE LOCATED OUTSIDE NORTH OR LATIN AMERICA; OR (C) PALO ALTO NETWORKS PUBLIC SECTOR LLC, IF YOU ARE A UNITED STATES FEDERAL GOVERNMENT ENTITY OR ORGANIZATION (EACH OF THE ENTITIES LISTED IN (A), (B) OR (C) BEING REFERRED TO HEREIN AS “PALO ALTO NETWORKS”). This EUSA sets forth the terms and conditions under which Palo Alto Networks will provide technical support services and customer success services for the Palo Alto Networks Products sold and/or licensed pursuant to the [End User License Agreement](#). In the event of a conflict between this EUSA and the End User Agreement, this EUSA shall take precedence, but only with respect to the subject matter described below

Contact: support.paloaltonetworks.com, 1.866.898.9087 in the U.S., +1.408.738.7799 outside the U.S.

1. SUPPORT PLANS AND SERVICES OFFERED

	PLATINUM	PREMIUM	STANDARD
Online Support	Yes	Yes	Yes
Telephone support	Yes - 24x7x365	Yes - 24x7x365	No
Initial Response Time	PLATINUM	PREMIUM	STANDARD
Severity 1 – Critical Product is down, critically affects Customer production environment. No workaround available yet.	≤ 15 minutes	≤ 1 hour	≤ 2 Business Hours
Severity 2 – High Product is impaired, Customer production up, but impacted. No workaround available yet.	≤ 30 minutes	≤ 2 hours	≤ 4 Business Hours
Severity 3 – Medium A Product function has failed, Customer production not affected. Support is aware of the issue and a workaround is available.	≤ 2 hours	≤ 4 hours	≤ 12 Business Hours
Severity 4 – Low Non-critical issue. Does not impact Customer business. Feature, information, documentation, how-to and enhancement requests from Customer.	≤ 4 hours	≤ 8 hours	≤ 48 Business Hours
Additional Services	PLATINUM	PREMIUM	STANDARD
Premium United States Government (“USG”) Support	N/A	Yes, if eligible	N/A
Security Assurance	Yes, if eligible	Yes, if eligible	N/A
Expert Assistance	Yes, if eligible	N/A	N/A
Focused Services including Plus and Elite tiers	Optional, if eligible	Optional, if eligible	N/A

HARDWARE RMA	4-HR PREMIUM OR 4-HR PLATINUM	PREMIUM OR PLATINUM	STANDARD
Advance Replacement Service: 4-Hour Replacement (available only for Hardware located within a specified range of Palo Alto Networks service locations)	Yes, if eligible	No	No
Advance Replacement Service: Next Business Day Service	N/A	Yes	No
Return and Repair	N/A	N/A	Yes

2. CUSTOMER SUCCESS PLANS AND SERVICES OFFERED*

	PLATINUM	PREMIUM	STANDARD
Online Technical Support	Yes	Yes	Yes
Telephone Technical support	Yes - 24x7x365	Yes - 24x7x365	No
Technical Support Initial Response Time	PLATINUM	PREMIUM	STANDARD
Severity 1 – Critical Product is down, critically affects Customer production environment. No workaround available yet.	< 15 minutes	≤ 1 hour	≤ 2 Business Hours
Severity 2 – High Product is impaired, Customer production up, but impacted. No workaround available yet.	< 30 minutes	≤ 2 hours	≤ 4 Business Hours
Severity 3 – Medium A Product function has failed, Customer production not affected. Support is aware of the issue and a workaround is available.	< 2 hours	≤ 4 hours	≤ 12 Business Hours
Severity 4 – Low Non-critical issue. Does not impact Customer Success. Feature, information, documentation, how-to and enhancement requests from Customer.	< 4 hours	≤ 8 hours	≤ 48 Business Hours
Self-help guidance: <ul style="list-style-type: none"> Online access to quick-start guides, best practices and training materials (pdf and video) Online access to knowledge base and Support Portal 	Yes	Yes	Yes
Customer Success	PLATINUM	PREMIUM	STANDARD
Customer Success Team Assistance (deliverables may vary based on the Product): <ul style="list-style-type: none"> Onboarding guidance Configuration guidance Operational and Integration guidance Education and training 	Optional, if eligible	Optional, if eligible	No
Additional Services	PLATINUM	PREMIUM	STANDARD
Premium United States Government (“USG”) Success	N/A	Yes, if eligible	No
Focused Services including Plus and Elite tiers	Optional, if eligible	Optional, if eligible	No

* This table may not be applicable for all Prisma Access Customer Success Plan(s) offered in certain countries in the Asia Pacific region. For more information, see Section 11.

3. DEFINITIONS

“**Affiliate**” means any entity that Controls, is Controlled by, or is under common Control with Customer or Palo Alto Networks, as applicable, where “Control” means having the power, directly or indirectly, to direct or cause the direction of the management and policies of the entity, whether through ownership of voting securities, by contract or otherwise.

“**Business Hours**” mean Mondays through Fridays, 9:00 am – 5:00 pm local time, excluding local holidays.

“**Customer Success Plan**” or “**Success Plan**” refers to a specific offering to provide technical support and to help promote customer success as described in section 5 below.

“**Expert Assistance**” refers to a Platinum-level service feature that provides on-site assistance for critical issues, failure analysis, and support for planned events.

“**Hardware**” means hardware-based products listed on the Palo Alto Networks then-current price list or supplied by Palo Alto Networks regardless of whether a fee is charged for such hardware.

“**Maintenance Releases**” mean bug fixes to the Software that: (i) are designated by a change in the 3rd set of digits of the version release number (e.g., v5.00.01 to v5.00.02); and (ii) are generally made available by Palo Alto Networks to its customers under valid support contracts at no additional cost.

“**Major Releases**” mean significant modifications or improvements to the Software that: (i) are designated by a change in the first digit of the version release number (e.g., v5.0 to v6.0); and (ii) are generally made available by Palo Alto Networks to its customers under valid support contracts at no additional cost.



“**Minor Releases**” mean minor modifications or improvements to the Software, cumulative bug fixes from Maintenance Releases since the last Minor Release and new bug fixes, as applicable, that: (i) are designated by a change in the second set of digits of the version release number (e.g., v5.00 to v5.01); and (ii) are generally made available by Palo Alto Networks to its customers under valid support contracts at no additional cost.

“**Online Support**” means access to the Support Portal, online documentation and Palo Alto Networks’ user community located at <https://live.paloaltonetworks.com>.

“**Product**” means, collectively, Hardware, Software, Subscription, or any combination thereof.

“**Security Assurance**” refers to a specific service designed to give Customers access to security experts with unique threat intelligence knowledge and tools.

“**Software**” means any software embedded in Hardware and any standalone software that is provided without Hardware, including updates, regardless of whether a fee is charged for the use of such software.

“**Standard Support,**” “**Premium Support,**” “**Platinum Support,**” “**Premium USG,**” “**4-Hour Premium Support,**” “**4-Hour Platinum Support**” and “**Support Plan**” refer to the various support programs offered by Palo Alto Networks, as further detailed in section 4 below.

“**Subscription**” means Software-as-a-Service and cloud-delivered security services, including updates, provided by Palo Alto Networks including, but not limited to, Cortex, Prisma, Threat Prevention, Advanced URL Filtering, WildFire, regardless of whether a fee is charged for its use. Support Plans, Customer Success Plans, and professional services are not considered Subscriptions under this EUSA.

“**Support Portal**” means the website currently located at <https://support.paloaltonetworks.com>, or any successor site specified by Palo Alto Networks.

4. SUPPORT PLAN OPTIONS

Where applicable, you may choose from Standard, Premium, Premium USG, Platinum, 4-Hour Premium and 4-Hour Platinum Support, and you must register each Product for which you have purchased support on the Support Portal in order to access the features and benefits available to such Product. Based on your selection and payment of applicable fees, Palo Alto Networks shall:

a. Standard Support

- i. Maintain and support the list of currently-supported releases published on the Support Portal.
- ii. Make available all supported Maintenance Releases, Minor Releases and Major Releases.
- iii. Verify defects in the Software identified and submitted by Customers.
- iv. Correct material defects in the Software for the currently-supported Maintenance Releases.
- v. Provide access to the Support Portal, which contains the latest Software versions, fixes, feature releases, signature and Subscription updates, knowledge base/FAQ, case management, release notes, technical documentation, and Software downloads.
- vi. Use commercially reasonable efforts to ensure that the Support Portal is available 24x7.
- vii. Respond to Online Support cases based on the severity classifications in section 1 above.
- viii. Provide a return and repair service for Hardware defects.

b. Premium Support

Includes all the benefits of Standard Support, plus faster response times and the following:

- i. Provide technical telephone support on a 24x7x365 basis. You are required to open a support ticket online in the Support Portal before reaching out for telephone support.
- ii. Advance replacement for defective Hardware. Refer to section 6 (RMA Policy and Process), subsection b (Advance Replacement) below for additional details.
- iii. Security Assurance:
 - a. Access to security experts in the event you detect suspicious activity in your network.
 - b. Eligibility:
 - i. This service is only applicable to the Hardware and VM-Series virtualized Firewalls.
 - ii. You must have a Best Practice Assessment (BPA) completed within the last 3 months.
 - iii. On the BPA, you must meet a minimum security threshold based on industry average in the 7 key feature adoption areas: WildFire, anti-virus, anti-spyware, DNS sinkhole, vulnerability protection, Advanced URL Filtering and logging.
 - iv. Each Customer may seek Security Assurance services no more than once per year.

c. Premium USG Support (State, Local, Federal Government and Government contractors only)



- Includes all the benefits of Premium Support delivered by U.S. citizens located in U.S.-based support centers.
- d. Platinum Support (not available in Japan)

Includes all the benefits of Premium Support, plus faster response times and Expert Assistance:

 - i. **Planned Event Assistance:** Upon your request and if scheduled 7 days in advance, Platinum senior engineers will assist with proactive maintenance activities such as Software upgrades or feature activations. May be utilized at a Customer business event where a Platinum engineer will be on-call to assist as necessary. You may receive assistance on up to 4 planned events per year, with each event normally not exceeding 4 hours. This service is not designed for troubleshooting activities or Product installations.
 - ii. **On-Site Assistance:** To address Severity 1 issues which cannot be resolved remotely; a field engineer may be dispatched to Customer's site when necessary, at the discretion of Palo Alto Networks management.
 - iii. **Failure Analysis:** Upon request, Palo Alto Networks will conduct and provide Hardware failure analysis on returned units. Failure Analysis does not extend to End of Sale (EOS) Products announced at <https://www.paloaltonetworks.com/services/support/end-of-life-announcements/end-of-sale>.
 - e. Focused Services (optional, if eligible)
 - i. Access to personalized support by an assigned account manager who will provide tailored support.
 - ii. Eligibility: All Products you use must be under valid Premium-level Support/Success Plans at a minimum, as applicable.
 - f. 4-Hour Premium or 4-Hour Platinum Support (applicable to qualified Hardware only)

Includes all the benefits of Premium or Platinum Support, as applicable, and delivery of replacement Hardware to you within four hours from the issuance of a RMA. This support option is available only for Hardware located within a specified range of a Palo Alto Networks service location. Eligibility must be determined, and the service sold, on a per-device basis. When covered, Palo Alto Networks will use commercially reasonable efforts to deliver replacements within the designated time frame.

5. CUSTOMER SUCCESS PLAN OPTIONS

Where applicable, you may choose from Standard Success, Premium Success, Premium USG Success, or Platinum Success. Upon provisioning of your production instance, you will be granted access to the Subscription and to the Support Portal. Based on your selection and payment of applicable fees, Palo Alto Networks shall:

- a. Standard Success
 - i. Respond to Online Support cases based on the severity classifications in section 2 above.
 - ii. Provide access to Online Support resources and materials 24x7.
 - iii. Maintain and support the list of Subscription release notes published on the Support Portal.
 - iv. Verify defects identified and submitted by Customers.
 - v. Correct material defects in the cloud software running in production.
 - vi. Use commercially reasonable efforts to ensure that the Support Portal is available 24x7.
- b. Premium Success

Includes all the benefits of Standard Success, plus faster response times and the following:

 - i. Provide technical support via telephone on a 24x7x365 basis. You are required to open a support ticket online in the Support Portal before reaching out for telephone support.
 - ii. Customer Success Teams Assistance (optional, if eligible).
 - iii. Focused Services (optional, if eligible)
 - a. Access to personalized support by an assigned account manager who will provide tailored support.
 - b. Eligibility: All Products you use must be under valid Premium-level Support/Success Plans at a minimum, as applicable.
- c. Premium USG Success (State, Local, Federal Government and Government contractors only)

Includes all the benefits of Premium Success, delivered by U.S. citizens located in U.S.-based support centers.
- d. Platinum Success (not available in Japan)

Includes all the benefits of Premium Success, plus faster response times.

6. RMA POLICY AND PROCESS

In situations when it is necessary for you to return a Hardware to Palo Alto Networks, you must ask Palo Alto Networks to issue a Return Material Authorization ("RMA") number prior to shipment. Each RMA number will be uniquely identified to



track the processing of the returned Hardware. Hardware RMA is subject to the Palo Alto Networks RMA Process and Policy (“RMA Policy”) found at

https://www.paloaltonetworks.com/content/dam/pan/en_US/assets/pdf/datasheets/support/rma-process-policy.pdf.

a. Return and Repair

You shall obtain a RMA number for the Hardware that you wish to return to Palo Alto Networks by contacting Support via telephone or the Support Portal. Support will work with you to confirm the Hardware problem and issue a RMA number to be used to ship the Hardware back to Palo Alto Networks. You shall repackage the Hardware in the original packaging (shipping damage that occurs from insufficient packaging is not covered), note the RMA number on the shipping label and ship the Hardware to the specified Palo Alto Networks location. You will be responsible for all shipping costs incurred in returning the defective Hardware to Palo Alto Networks. Hardware will be repaired (or replaced) and shipped within 10 business days from receipt of the defective Hardware by Palo Alto Networks. Palo Alto Networks will pay all shipping costs incurred in shipping the repaired or replacement Hardware to you, except that if you are located outside the United States, you will be responsible for any taxes, duties, fees or other charges assessed in connection with importing the repaired or replaced Hardware into your country of destination.

b. Advance Replacement

You shall obtain an RMA number for the Hardware that you wish to return to Palo Alto Networks by contacting Support via telephone or the Support Portal. Support will work with you to confirm the Hardware problem and issue a RMA number to be used to ship the Hardware back to Palo Alto Networks. Subject to the RMA Policy, Palo Alto Networks will use commercially reasonable efforts to attempt to deliver a replacement Hardware to you by the next business day. Palo Alto Networks will pay all shipping costs incurred in shipping the replacement Hardware to you. Upon receipt of a replacement Hardware, you shall return the defective Hardware to Palo Alto Networks in the replacement Hardware’s packaging (shipping damage that occurs from insufficient packaging is not covered), using the prepaid return airbill affixed to the exterior of the shipping carton, and arranging for the designated courier service for pickup. If Palo Alto Networks does not receive the returned Hardware within 10 business days after the delivered date of the replacement Hardware, you will be charged current list price of the replacement Hardware.

c. 4-Hour Replacement (applicable to qualified Hardware only)

You shall obtain an RMA number for the Hardware that you wish to return to Palo Alto Networks. Support will work with you to confirm the Hardware problem and issue a RMA number. Palo Alto Networks will use commercially reasonable efforts to aim to deliver a replacement Hardware to you within four hours after issuance of the RMA number. You must have an authorized representative available to accept delivery of the replacement Hardware. If Palo Alto Networks (or its subcontractor) is unable to complete delivery because you did not have an authorized representative available, Palo Alto Networks reserves the right to charge you for costs incurred in making a subsequent delivery.

7. YOUR OBLIGATIONS

During the term of your support contract, you must:

- a. Operate at the then-supported Maintenance Release;
- b. Use reasonable efforts to isolate, collect all error and log files to enable Palo Alto Networks to fulfill its obligations herein; and
- d. Notify Palo Alto Networks if you physically relocate device(s) covered by 4-Hour Replacement service to new location(s), including verification that the relocated device(s) remain within the geographical area covered by 4-Hour Replacement service.

Other support-related policies available at <https://www.paloaltonetworks.com/services/support/support-policies.html> may be applicable.

8. LIMITATIONS

The following services are expressly excluded from Support and Success Plans:

- a. Repair or replacement of Product required as a result of causes other than normal use, including without limitation:
 - i. repair, maintenance or modification of the Product by persons other than Palo Alto Networks-authorized personnel;
 - ii. accident or negligence of your fault;
 - iii. user error or misuse of the Product; or



- iv. causes external to the Product such as, but not limited to, failure of electrical systems or fire or water damage or hardware failure, operation system software failure or any other damage and failure not caused by Palo Alto Networks.
- b. Maintenance or technical services for any third-party software or hardware, where such third-party software or hardware was not provided by Palo Alto Networks.
- c. Palo Alto Networks reserves the right not to support Products which were not purchased via an authorized Palo Alto Networks distributor or reseller.

9. TERM AND TERMINATION

This EUSA is effective until terminated or, as applicable, in accordance with the term of your Support or Success Plan. Palo Alto Networks will send you renewal reminders in advance of the expiration date(s) of the applicable Support or Success Plan. At the end of the term (and each renewal term thereafter, if any), the applicable Support or Success Plan will automatically expire unless you renew. Either party may terminate this EUSA and the applicable Support and/or Success Plan(s) at any time in the event the other party breaches any material term of this EUSA and fails to cure such breach within thirty (30) days following such notice.

10. NO WARRANTY

Nothing in this EUSA shall be construed as expanding or adding to the warranty set forth in the Palo Alto Networks End User Agreement. PALO ALTO NETWORKS MAKES, AND YOU RECEIVE, NO WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, ARISING IN ANY WAY OUT OF, RELATED TO, OR UNDER THIS AGREEMENT OR THE PROVISION OF MATERIALS OR SERVICES THEREUNDER, AND PALO ALTO NETWORKS SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY INCLUDING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Note that replacement Products under section 6 may consist of new or remanufactured parts that are equivalent to new. All Products that are returned to Palo Alto Networks and replaced become the property of Palo Alto Networks. Palo Alto Networks shall not be responsible for your or any third party's software, firmware, information, or memory data contained in, stored on, or integrated with any Product returned to Palo Alto Networks for repair or upon termination, whether under warranty or not.

11. SUPPLEMENTAL TERMS AND CONDITIONS

For the supplemental terms and conditions under which Palo Alto Networks will provide technical support services for the Cloud NGFW for AWS Products sold and/or licensed pursuant to the End User Agreement, please see the Supplemental End User Support Agreement available at: <https://www.paloaltonetworks.com/legal/eusa/ngfwaws>.

For the supplemental terms and conditions under which Palo Alto Networks will provide technical support services for AI Ops for NGFW Products sold and/or licensed pursuant to the End User Agreement, please see the Supplemental End User Support Agreement available at: <https://www.paloaltonetworks.com/legal/eusa/aiops>.

For the supplemental terms and conditions under which Palo Alto Networks will offer Customer Success Plan for the Prisma Access Products in certain countries in the Asia Pacific region, please see the Supplemental End User Support Agreement available at: <https://www.paloaltonetworks.com/legal/eusa/prisma-access-cn>.



Thank you for choosing CDW. We have received your quote.

Hardware Software Services IT Solutions Brands Research Hub

QUOTE CONFIRMATION

CHRIS VERHAEGE,

Thank you for considering CDW•G for your technology needs. The details of your quote are below. **If you are an eProcurement or single sign on customer, please log into your system to access the CDW site.** You can search for your quote to retrieve and transfer back into your system for processing.

For all other customers, click below to convert your quote to an order.

Convert Quote to Order

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
NMKH925	8/7/2023	PAN CORTEX	6721374	\$104,590.00

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
Cortex XDR Pro - License - 1 TB Capacity Mfg. Part#: PAN-XDR-ADV-1TB Electronic distribution - NO MEDIA Contract: California NVP Software (ADSP016-130652 7-16-70-37)	5	5876960	\$7,500.00	\$37,500.00
Cortex XDR Pro License - 1 Endpoint Mfg. Part#: PAN-XDR-ADV-EP Electronic distribution - NO MEDIA Contract: California NVP Software (ADSP016-130652 7-16-70-37)	250	5878169	\$45.00	\$11,250.00
Cortex XDR Prevent License for 1 Endpoint Mfg. Part#: PAN-XDR-PRVT Electronic distribution - NO MEDIA Contract: California NVP Software (ADSP016-130652 7-16-70-37)	2350	5873863	\$9.00	\$21,150.00
Cortex XDR Host Insights Add-on - license - 1 license Mfg. Part#: PAN-XDR-HOST-INST Electronic distribution - NO MEDIA Contract: California NVP Software (ADSP016-130652 7-16-70-37)	250	6328602	\$9.00	\$2,250.00
Cortex XDR Forensics Add-On - subscription license (1 year) - 1 license Mfg. Part#: PAN-XDR-FRNS Electronic distribution - NO MEDIA Contract: California NVP Software (ADSP016-130652 7-16-70-37)	250	6711204	\$40.00	\$10,000.00
Palo Alto Networks Premium Success Plan - technical support - for Cortex XD Mfg. Part#: PAN-XDR-PREM-SUCCESS Electronic distribution - NO MEDIA Contract: California NVP Software (ADSP016-130652 7-16-70-37)	1	6363610	\$19,500.00	\$19,500.00

QUOTE DETAILS (CONT.)

CORTEX XDR 2-PREV ANALYSIS& RESPONSE 1 6990864 \$2,940.00 \$2,940.00

Mfg. Part#: CDW-EDU-260-JT

Contract: National IPA Technology Solutions (2018011-01)

SUBTOTAL	\$104,590.00
SHIPPING	\$0.00
SALES TAX	\$0.00
GRAND TOTAL	\$104,590.00

PURCHASER BILLING INFO	DELIVER TO
Billing Address: COUNTY OF KINGS INFORMATION TECHNOLOGY 1400 W LACEY BLVD HANFORD, CA 93230-5997 Phone: (559) 582-3211 Payment Terms: NET 30-VERBAL	Shipping Address: COUNTY OF KINGS INFORMATION TECHNOLOGY DEPARTMENT 1400 W LACEY BLVD BLDG 5 HANFORD, CA 93230-5905 Shipping Method: ELECTRONIC DISTRIBUTION
	Please remit payments to: CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515



Sales Contact Info

Chris Anderson | (877) 570-2643 | chrande@cdwg.com

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Support



Call 800.800.4239

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This order is subject to CDW's Terms and Conditions of Sales and Service Projects at

<http://www.cdwg.com/content/terms-conditions/product-sales.aspx>

For more information, contact a CDW account manager

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COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 852-2362
Catherine Venturella, Clerk of the Board of Supervisors

AGENDA ITEM December 5, 2023

SUBMITTED BY: Public Works Department – Dominic Tyburski/Mitchel Cabrera
SUBJECT: HIGHWAY SAFETY IMPROVEMENT PROGRAM – CYCLE 11 GRANT – ROADWAY PROJECT

SUMMARY:

Overview:

The Public Works Department is recommending O’Dell Engineering, Inc., through the Request for Proposal (RFP) process, to prepare the Plans, Specifications, & Estimate (PS&E) for the subject project. Proposals submitted by various consulting firms were ranked, with O’Dell Engineering, Inc. ranking first based on their project understanding, professional presentation, and previous success with similar work.

Recommendation:

Approve the Agreement with O’Dell Engineering, Inc. to prepare Plans, Specifications, and Estimate package for County roadway improvements.

Fiscal Impact:

The project is programmed through the Federal Highway Administration (FHWA) Highway Safety Improvement Program (HSIP). The consultant fees of \$222,551 (including optional tasks) will be funded at a ratio of 90%, \$200,295 Federal Funds through the Highway Safety Improvement Program (HSIP) and remaining 10%, \$22,256 funded through the Road Department, Budget Unit 311000.

BACKGROUND:

Three HSIP applications were prepared for submission with one (1) being selected for funding. The first approved application requested safety roadway improvements by adding flashing beacons at the stop ahead and/or stop signs at the following intersections: Grangeville Avenue at 7th Avenue, Idaho Avenue at 17th Avenue, Jersey Avenue at 19th Avenue, and Jackson Avenue at 14th Avenue.

(Cont’d)

BOARD ACTION :

APPROVED AS RECOMMENDED: _____ OTHER: _____

I hereby certify that the above order was passed and adopted
on _____, 2023.

CATHERINE VENTURELLA, Clerk to the Board

By _____, Deputy.

Agenda Item

HIGHWAY SAFETY IMPROVEMENT PROGRAM – CYCLE 11 GRANT – ROADWAY PROJECT

December 5, 2023

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In addition, the approved application included the addition of left turn lanes at the intersection of Excelsior Avenue at 11th Avenue, and Excelsior Avenue at 13 ¼ Avenue. Preliminary recommendations from the Systemic Safety Analysis Report (SSAR) were used to select candidate projects for the HSIP Cycle 11 applications. This systemic report takes into consideration traffic patterns, collision history and trends in developing projects for consideration. The use of these recommendations for HSIP funding and other grant opportunities was the reason behind developing this report. Work will commence immediately upon Board approval of the consultant services agreement.

The consultant services agreement has been reviewed and approved by County Counsel as to form.

CONSULTANT SERVICES AGREEMENT



FINAL ENGINEERING PLANS, SPECIFICATIONS, AND ESTIMATE

HSIPL 5945(122) HSIP CYCLE 11 SAFETY IMPROVEMENTS RFP # 2023-43

_____, 2023

ISSUED BY:

Kings County-Public Works Department
1400 W. Lacey Boulevard
Building 6
Hanford, CA 93230

HSIP CYCLE 11 SAFETY IMPROVEMENTS

THIS AGREEMENT is made and entered into as of the ____ day of _____, 2023, by and between the County of Kings, a political subdivision of the State of California (hereinafter “County”) and O’Dell Engineering, Inc., a California corporation (hereinafter “Consultant”) (singularly a “Party,” collectively the “Parties”).

RECITALS

WHEREAS, County has requested proposals for consulting services to prepare Plans, Specifications, and Estimate (PS&E) package for the HSIP Cycle 11 Safety Improvements in rural Kings County. These consulting services are to include utility coordination services, environmental clearance (NEPA and CEQA), right of way acquisition services and final engineering PS&E performed to the satisfaction of the County, State, and Federal Highway Administration (FHWA); and

WHEREAS, Consultant’s response indicates that it possesses the professional qualifications, relevant experience, and demonstrated competence to provide these consulting services; and

WHEREAS, Consultant is ready, willing, and able to perform these consulting services to the satisfaction of the County, State and shall meet all terms and conditions of the Highway Safety Improvement Program (HSIP) funding.

NOW, THEREFORE, the Parties mutually agree as follows:

1. SERVICES. County hereby engages Consultant and Consultant shall do, perform, and carry out the services as set forth in **Exhibit A** to the reasonable satisfaction of County’s Public Works Director or designee. All work performed and billed to County by Consultant shall be grant eligible in accordance with the HSIP funding requirements, unless otherwise directed by County in writing.

Final plans shall be provided to the County in hardcopy and in electronic format using AutoCAD version 2020 or later. Final specifications shall be provided in hardcopy and in electronic format using Microsoft Word. Other electronic files shall be in electronic format using industry standard software.

2. TIME FOR PERFORMANCE/TERM. Time is of the essence in this Agreement. Consultant shall not commence performance of work or services until this Agreement has been fully executed by both parties and the County has issued a Notice to Proceed. The services as set forth in **Exhibit A** will commence within five (5) days of Consultant’s receipt of County’s written Notice to Proceed and shall terminate five (5) years from the date of execution.

3. PROFESSIONAL STANDARDS. By submitting final documents for

HSIP CYCLE 11 SAFETY IMPROVEMENTS

approval by County, Consultant represents that said documents are accurate. Consultant will be responsible to the County for the professional quality, adequacy, and completeness of the services, studies, and reports provided, and represents that such services, studies and reports will be suitable for the intended purposes.

Consultant will perform the services provided in this Agreement in a manner consistent with the professional skill and care ordinarily exercised by the expert members of the planning, engineering, right of way and environmental profession practicing in the State of California under similar conditions.

Where applicable and in accordance with California law, the responsible Consultant or its engineer shall sign and seal reports, plans, specifications, estimates and engineering data furnished by him/her.

4. COMPENSATION.

A. County shall pay Consultant a fee for services rendered, calculated according to rates set forth in Consultant's cost proposal, attached hereto as **Exhibit B** for reference. Notwithstanding any other provision of this Agreement, including its exhibits, the total amount payable to Consultant for work under this Agreement, including for Optional Tasks (defined in the following paragraph), shall not exceed **\$222,551.00**. The total fee paid to the Consultant shall include compensation for all work and deliverables, including but not limited to salary, overhead, profit, travel, and equipment as described in **Exhibit A**. No additional compensation will be paid to Consultant, unless there is a change in the scope of work or scope of the project.

B. The agreement includes Optional Tasks to be performed and compensated as needed with prior authorization from the County. No payment will be made for Optional Tasks performed without prior authorization from the County. For greater clarity, these Optional Tasks are identified in the Cost Proposal attached hereto as **Exhibit B** and listed in Part A1 of the table entitled "Project Fees by Task."

C. No payment will be made for any work performed prior to Consultant receiving the Notice to Proceed from County.

D. Consultant shall identify which job classifications in **Exhibit B** are subject to prevailing wage rates. For greater clarity, generally work performed onsite will be subject to payment of prevailing wage rates, as set forth in Section 14, below.

E. The Parties agree that the Federal Acquisition Regulations as set

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forth in 48 CFR Part 31 are the governing factors regarding allowable elements of cost. The parties shall comply with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and local governments.

F. Any cost, attributable directly or indirectly to Consultant's error, for which payment has been made to Consultant that is determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 *et seq.*, or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, is subject to repayment by Consultant to the State.

5. INVOICING AND PAYMENT. No sooner than the 10th day of each calendar month, Consultant shall submit to County a detailed invoice for services rendered during the previous calendar month. Within thirty (30) days of receipt of invoice, County will either reject invoice or approve and remit to Consultant the invoiced portion of the fee as a progress payment. Upon rejection of the invoice, the County shall return the invoice to Consultant for correction and resubmittal.

Consultant will be deemed to have waived all rights to compensation for any services not billed within ninety (90) days after the month in which the services were provided.

6. TERMINATION. The right to terminate this Agreement under this provision may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement.

A. Without Cause: County will have the right to terminate this Agreement without cause by giving ten (10) days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination. No sanctions will be imposed.

B. With Cause. This Agreement may be terminated by either party should the other party:

- (1) be adjudged a bankrupt, or
- (2) become insolvent or have a receiver appointed, or
- (3) make a general assignment for the benefit of creditors, or
- (4) suffer any judgment which remains unsatisfied for thirty (30) days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or
- (5) materially breach this Agreement.

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For any of the occurrences except item five (5), termination may be effected upon written notice by the terminating party specifying the date of termination. Upon a material breach, this Agreement may be terminated following the failure of the defaulting party to remedy the breach to the satisfaction of the non-defaulting party within five (5) days of written notice specifying the breach. If the breach is not cured within that five (5) day period, the non-defaulting party may terminate this Agreement on further written notice specifying the date of termination. Sanctions taken will be possible rejection of future proposals based on specific causes of non-performance.

C. Effects of Termination. County will pay to the Consultant the compensation earned to the date of termination for such work and deliverables that are acceptable to the County. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from Consultant of any and all plans, specifications and estimates, and other documents prepared by Consultant by the date of termination in accordance with this Agreement.

7. INSURANCE. For the full term of this Agreement, Consultant will keep in force the required insurance as set forth in **Exhibit C**.

8. INDEMNIFICATION.

A. When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless County and any and all of its Board members, officials, employees and agents from and against any and all losses, liabilities, damages, costs, and expenses, including legal counsel's fees and costs but only to the extent Consultant (and its subconsultants) are responsible for such damages, liabilities, and costs on a comparative basis of fault between Consultant (and its subconsultants) and County in the performance of professional services under this Agreement. Consultant shall not be obligated to defend or indemnify County for County's own negligence or for the negligence of third parties.

B. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend, and hold harmless County, and any and all of its Board members employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel's fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in

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any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including, but not limited to, officers, agents, employees, or subconsultants of Consultant.

C. This indemnification specifically includes any claims that may be against County by any taxing authority or third party asserting that an employer-employee relationship exists by reason of this Agreement.

D. These indemnification obligations shall survive the termination of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

9. VITAL PERSONNEL. The following personnel are vital personnel on the Consultant's project team: Dylan Crawford, Michael Beltran, Kristin Scheidt, Mike Persak, Scott Roberts, Dennis Wann, Ray Weiss, Stephen Plauson, and Bob Morrison.

At least ten (10) days prior to any change to the list of vital personnel, Consultant shall provide written notice to County. No change shall be made to the list without County's prior written approval, which shall not be unreasonably withheld, provided that any proposed substitute personnel shall have qualifications and/or experience equal to or better than the individual(s) to be replaced.

10. PATENT RIGHTS AND COPY RIGHTS. Applicable patent rights provisions described in 37 CFR regarding rights to inventions shall apply to this Agreement. County may permit copyrighting reports or other agreement products. If copyrights are permitted, the Agreement shall provide that FHWA and County shall have the royalty-free non-exclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the work for governmental purposes.

11. OWNERSHIP OF DOCUMENTS. Tracings, plans, specifications, and maps prepared or obtained under the terms of this agreement shall be delivered to and become the property of County, and that basic survey notes and sketches, charts, computations, and other data prepared or obtained under this Agreement shall be made available, upon request, to County without restriction or limitation on their use. For preliminary plans only, nothing stated or implied herein shall constitute a limitation of the subsequent use of the plans or ideas incorporated therein for preparation of construction plans. County will indemnify and hold Consultant harmless for any reuse by County of documents produced under this Agreement for any other projects without the written approval of Consultant.

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12. RECORDS. Consultant will maintain complete and accurate records with respect to the services rendered and the costs incurred under this Agreement, including records with respect to any payments to employees or subconsultants. These records shall be retained by Consultant for inspection by County, State, FHWA, or their duly authorized representatives. All such records will be prepared in accordance with generally accepted accounting procedures, will be clearly identified, and will be kept readily accessible. Upon request, Consultant will make such records available for inspection by County, State, FHWA, or their duly authorized representative(s) for the purpose of auditing and/or copying such records during the term of this Agreement and continuing for a period of five (5) years from the date of final payment under this Agreement or any extension of this Agreement.

13. INDEPENDENT CONTRACTOR STATUS.

A. Consultant is an independent contractor and not an agent, officer or employee of County. The Parties mutually understand and agree that this Agreement is by and between two independent contractors and is not intended to, and shall not be construed to create, the relationship of agent, servant, employee, partnership, joint venture or association.

B. Consultant is solely obligated to pay all applicable taxes, deductions and other obligations including, but not limited to, federal and state income taxes, withholding, Social Security, unemployment, disability insurance, Workers' Compensation and Medicare payments.

C. Consultant, with full knowledge and understanding of the foregoing, freely, knowingly, willingly and voluntarily waives the right to assert any claim to any right or benefit or term or condition of employment insofar as they may be related to or arise from compensation paid hereunder.

D. Notwithstanding this independent contractor relationship, County reserves the right to monitor and evaluate the performance of Consultant for the purpose of assuring compliance with this Agreement.

14. COMPLIANCE WITH LAW. Consultant shall comply with all Federal, State, and local laws, regulations and directives applicable to its performance. With respect to Consultant's employees, Consultant will comply with all laws and regulations pertaining to wages and hours (including prevailing wage rates where applicable), state and federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment.

Onsite work performed by Consultant's personnel shall be subject to the payment

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of prevailing wages as required by the Labor Code. Consultant further understands and agrees that it shall bear sole responsibility for ensuring the enforcement thereof including registering with and submitting certified payrolls to the Department of Industrial Relations for compliance monitoring pursuant to Labor Code section 1725.5.

Without limiting the generality of the foregoing, Consultant shall comply with the state and federal contract requirements attached hereto as **Exhibit F**, which is incorporated herein by this reference.

15. NON-ASSIGNABILITY. Unless otherwise provided in this Agreement, County is relying on the personal skill and expertise of Consultant and no part of this Agreement or monies due to Consultant under this Agreement may be assigned by Consultant.

16. SUBCONTRACTS. Services provided by Consultant may be subcontracted to reputable and qualified subconsultants upon written notice to and written approval of County which approval shall not be unreasonably withheld. Subcontracts shall contain the provisions in Sections 7 Insurance, 8 Indemnification, 11 Ownership of Documents, 12 Records, 14 Compliance with Law, and 18 Conflict of Interests of this Agreement.

17. NOTICE. Except as may be otherwise required by law, any notice to be given must be written and must be either personally delivered, sent by facsimile transmission or sent by First Class Mail, postage prepaid and addressed as follows:

COUNTY OF KINGS

Mitchel Cabrera, P.E.
Chief Engineer
1400 W. Lacey Boulevard, Building 6
Hanford, CA 93230

O'DELL ENGINEERING, INC

Michael Beltran, P.E.
Senior Project Manager
7110 N. Fresno Street, #160
Fresno, CA 93720

Notice delivered personally or sent by facsimile transmission is deemed to be received upon receipt. Notice sent by First Class Mail will be deemed received on the fourth day after the date of mailing.

Either party may change the above address by giving written notice pursuant to this section. The above stated Consultant address shall be the main working office location for the duration of this Agreement.

18. CONFLICT OF INTERESTS. Consultant warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit or secure this Agreement, and that he/she has not paid or agreed

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to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warrant, County reserves the right to seek any remedy available in law or equity including termination of this Agreement. (See **Exhibit D**).

County has not required Consultant to employ or retain any company or person, or to pay or agree to pay any firm, person or organization, any fee, contribution donation or consideration of any land, contingent upon or resulting from the award or formation of this Agreement. (See **Exhibit E**).

19. CHOICE OF LAW. The parties have executed and delivered this agreement in the County of Kings, State of California. The laws of the State of California shall govern the validity, enforceability or interpretation of this Agreement, notwithstanding conflicts of law principles. Kings County shall be the venue for any action or proceeding, in law or equity that may be brought in connection with this Agreement. Consultant hereby waives any rights it may possess under Section 394 of the Code of Civil Procedure to transfer to a neutral county or other venue any action arising out of this Agreement.

20. WAIVERS. Notwithstanding the passage of time, the failure of either party to insist on strict compliance with any provision of this Agreement will not be considered a waiver of any right to do so, whether for that breach or and any subsequent breach. The acceptance by either party of either performance or payment will not be considered to be a waiver of any preceding breach of the Agreement by the other party.

21. DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION. Upon review of the project's scope of work, County has established a Disadvantaged Business Enterprise (DBE) goal of twenty-seven (27) percent for this Agreement. Consultant shall meet this requirement as set forth in Consultant's DBE commitment attached hereto as **Exhibit G**, unless County approves any changes to the commitment in its sole discretion.

22. NON-DISCRIMINATION. In rendering services under this Agreement, Consultant shall comply with all applicable federal, state and local laws, rules and regulations and shall not discriminate based on age, ancestry, color, gender, marital status, medical condition, national origin, physical or mental disability, race, religion, sexual orientation, or any other basis prohibited by law.

Further, Consultant shall not discriminate against its employees, which includes, but is not limited to, employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of

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compensation and selection for training, including apprenticeship.

23. UNFORESEEN CIRCUMSTANCES. Consultant is not responsible for any delay caused by natural disaster, war, civil disturbance, labor dispute or other cause beyond Consultant's reasonable control, provided Consultant gives written notice to County of the cause of the delay within ten (10) days of the start of the delay.

24. TITLES TO BE DISREGARDED. The titles of the sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

25. NO THIRD-PARTY BENEFICIARIES. County and Consultant are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide, any right or benefit, whether directly or indirectly or otherwise, to a third party.

26. SEVERABILITY. If any provisions of this Agreement are found by any court or other legal authority, or are agreed by the parties, to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force and effect to the extent necessary to effectuate the original intent of the parties as closely as possible.

27. SURVIVAL. The following sections shall survive the termination of this Agreement: 7 Insurance, 8 Indemnification, and 12 Records.

28. FURTHER ASSURANCES. Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to affect the purposes of this Agreement.

29. CONFLICT IN TERMS. Any conflict in terms between this Agreement with its Exhibits A through E and the terms set forth in **Exhibit F**, this Agreement with its Exhibits A through E shall control.

30. ENTIRE AGREEMENT REPRESENTED. This Agreement, including its Recitals and Exhibits which are fully incorporated into and are integral parts of this Agreement, constitutes the entire agreement between the parties and there are no inducements, promises, terms, conditions or obligations made or entered into by County or Consultant other than those contained herein.

This Agreement represents the contributions of both parties, who are each represented by competent counsel, and it is expressly agreed and understood that the rule

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stated in Civil Code section 1654, that ambiguities in a contract should be construed against the drafter, shall have no application to the construction of the Agreement.

31. EXECUTION. This Agreement may be executed in more than one counterparts, each of which may deemed an original. This Agreement may be executed electronically, and an electronic copy or other facsimile shall be treated as an original.

IN WITNESS WHEREOF the parties have executed this Agreement the day and year first written above.

COUNTY OF KINGS

CONSULTANT

By: _____
Richard Valle, Chair
Kings County Public Works Dept.

DocuSigned by:
By: Dylan Crawford
Dylan Crawford, President

ATTEST

By: _____
Catherine Venturella, Clerk of the Board

DocuSigned by:
By: Chad Kennedy
Chad Kennedy, Secretary

RISK MANAGEMENT APPROVED
AS TO INSURANCE

By: Sarah Poots 11/07/2023
Sarah Poots, Risk Manager

Approved as to Form
Diane Freeman, County Counsel

By: Diane Freeman

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LIST OF EXHIBITS

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
EXHIBIT A	Scope of Work
EXHIBIT B	Cost Proposal
EXHIBIT C	Insurance Requirements
EXHIBIT D	Certification of Consultant
EXHIBIT E	Certification of Local Agency
EXHIBIT F	State Contract Requirements
EXHIBIT G	Exhibit 10-02

EXHIBIT A
SCOPE OF WORK

Project Schedule

The Plans, Specifications and Estimate (PS&E) package is anticipated to take 12 months from the date the notice to proceed is provide by the County.

Scope of Work

Task 1 Design and Development

Task 1.1 Project Management & Coordination

- Attend a pre-design kick-off meeting with County staff to discuss the overall project goals and scope of work, project phasing, project schedule, and budget. We will also discuss and document the County's expectations.
- Prepare a project schedule and update as needed throughout the project life to ensure work meets or exceeds project milestones.
- Prepare monthly progress reports with invoicing for the County.
- Coordinate with subconsultants.
- Provide documented Quality Control/Quality Assurance review of project documents.

DELIVERABLES:

- Meeting Notes (PDF)
- Updated Project Schedule (PDF)
- Monthly Progress Reports with Invoice (PDF)

Task 1.2 Survey Base Mapping

- Left-Turn Lane Locations
 - » Perform cross-section surveys of Excelsior Avenue at approximately 200-foot intervals.
 - » Locate surface-visible utility features and improvements, such as signs, fences, walls, buildings, striping, driveways, walkways, drainages, structures, lights, poles, bollards, general limits of vegetated or landscaped areas, USA markings, vaults, valves, meters, boxes, pedestals, cleanouts, manholes, drain inlets, catch basins, culverts, outfalls, and standpipes.
 - » Prepare a road right-of-way linework base map drawing covering the subject mapping limits area.
 - » Develop 1" = 20' scale survey base map drawing to support design.
- Flashing Beacon Locations
 - » Using UAV technology, prepare current color orthophotography of the subject areas on the project coordinate system.
 - » Prepare a conceptual road right-of-way linework base map drawing covering the subject mapping limits area. Linework will be based solely on record information from filed survey maps, recorded documents, and any other client-provided information, then placed relative to other deliverables using a limited amount of physical evidence.

DELIVERABLES:

- Digital Copy of the Survey Base Map in AutoCAD Civil 3D 2022 Format
- PDF Copy of the Survey Base Map on O'Dell Title Block
- Digital Copy of the Color Orthophotography in TIFF Format

Task 1.3 Geotechnical Investigation

- Coordinate with the team to discuss preliminary design plans, project design needs, issues, and schedules.
- Evaluate the subgrade soils in the planned widening areas and perform three to five hand auger borings.
- These materials generated during the field will be utilized for laboratory testing (likely R-Value, PI, and Grainsize analysis).
- Prepare a Geotechnical Memo containing the following:
 - » Project description
 - » Results of the field investigation and laboratory testing
 - » Flexible pavement section recommendations based on traffic index provided by Kings County
 - » Geotechnical recommendations for grading and construction, including subgrade preparation, materials excavation, stability, and fill placement

3. Scope of Work

- » Risk management and limitations
- » Vicinity Map
- » Site Plan with exploration locations

DELIVERABLES:

- Draft Pavement Memo (PDF)
- Final Pavement Memo (PDF)

Task 1.4 Storm Drainage

- Prepare calculations to account for roadway storm water run-off for a two-year rain event on sections being widened.
- Set profiles and grades to ensure storm water does not encroach on the roadway.

Task 1.5 Research and Utility Coordination

- Review any as-built plans provided by the County and utility maps (obtained in Task 2).
- Based on the project research and the topographic survey, perform an analysis to determine if there are any potential utility conflicts.
- Prepare a complete list of all existing utilities (underground and aboveground) in the project area.
- Maintain coordination with the utility companies as needed throughout the project.
- Coordinate utility relocations (if any) with any and all affected utilities in accordance with Caltrans LAPM and FHWA requirements.

DELIVERABLES:

- List of All Utilities & Facilities in Project Area (PDF)
- Utility Conflict Plan (If Necessary)

Task 1.6 Right-of-Way Acquisition Services

- Acquire and review a preliminary title report for each impacted property.
- Prepare land description packages to support fee or easement acquisitions, including a written description, a plat (exhibit), and closure report (if applicable) per package. Each land description package will support one acquisition type from a single owner across all contiguously owned legal parcels.

Appraisal Waiver

For federally funded projects, an appraisal is not required if it determined the value of the proposed acquisition is uncomplicated and the fair market value is estimated at \$10,000 or less. Accordingly, Monument will prepare a valuation report by utilizing the "Waiver Valuation in Lieu of Appraisal" procedures described under 49 CFR 24.102(c)(2) and Section 07.02.13, Chapter 7 of the Caltrans Right-of-Way Manual. Waiver Valuations are suitable for purposes of establishing the amount of just compensation and conduct good faith negotiations. However, they cannot be used for eminent domain proceedings. *Please note: An appraisal waiver cannot be used if the parcel negotiations head to Eminent Domain.*

Monument will:

- Prepare and mail a "Notice of Decision to Inspect" to the property owner with the appropriate Acquisition Brochure and Title VI information and request permission to conduct an on-site inspection of the property.
- Review design plans, title information, legal descriptions and plat maps, and any other information pertaining to the subject property.
- Perform an inspection of the subject property with the owner and document and photograph the use, special features, and any site improvements within the proposed acquisition area.
- Research and analyze relevant market information and formulate the valuation amount of the proposed acquisition.
- Prepare a "Waiver Valuation in Lieu of Appraisal" report utilizing the Caltrans form 7-EX-21A provided in Chapter 7 "Appraisal" in the Caltrans Right-of-Way Manual.

Acquisition Process

Monument's Acquisition Agent will contact the property owner(s) and, if possible, meet with the owner in person at a convenient

3. Scope of Work

location to present the County's offer within two (2) weeks after receipt of the approved appraisal and determination of just compensation by the County. During this meeting, the agent will discuss the project, explain the property rights affecting the property, review the proposed project design, present the offer to purchase, review the salient information in the appraisal report, review the terms of the ROW Contract, and answer any questions or concerns the owner may have concerning the process. An informational brochure explaining the acquisition process will also be provided.

Owners will be given reasonable opportunity to consider offers, present materials they believe are relevant to determining property values, and suggest modifications in the proposed terms and conditions of the purchase. Every reasonable effort will be made to acquire the necessary real property rights expeditiously through negotiations. The Acquisition Agent will proactively communicate with the property owner on a regular basis, meet in person when necessary, and respond to any questions, concerns, or clarifications requested by the property owner. The Acquisition Agent will establish a file and maintain a parcel diary/log to record all communications with the property owner and/or the property owner's representative. If an amicable agreement is reached with the property owner, the Acquisition Agent will prepare a memorandum transmitting the owner's signed agreement and executed deeds to sell the property, for review and approval by the County. Monument will negotiate with the owner for up to 60 days from the initial offer.

After an offer is accepted and the purchase agreement is approved by the County, Monument's Escrow Coordinator will transmit the original documents to the escrow company. The Escrow Coordinator will review the updated title report and prepare a memorandum of disapproved title exceptions. The escrow company will prepare escrow instructions, transmit a copy of the purchase contract to the title company, and begin the process of satisfying all monetary liens, prorating taxes and clearing adverse title exceptions and encumbrances. Upon escrow's request for funds from the County, the estimated closing amount will be deposited in escrow, and upon close, the escrow holder will record a deed and issue a title insurance policy. The Escrow Coordinator will provide ongoing support to the escrow officer to ensure the timely execution of escrow instructions, coordination of title clearance documents, and processing of wire transfers. Escrow closure generally will be accomplished in 30 to 60 days.

Right-of-Way Certification

The final phase of the right-of-way program is Right-of-Way Certification approval, which documents that the construction project is ready for advertising. During this process, Monument will coordinate and attend certification planning activities and meet with the client and the County, Caltrans Right-of-Way and Local Assistance staff, and the project partners to determine project requirements and the certification level required to meet the project construction schedule. Monument will coordinate with the project engineer, utility relocation, acquisition, and right-of-way engineering managers to ensure their respective activities have been completed in compliance with applicable policy and certification requirements.

Monument will assist the County in the preparation of the submittal package that will include the certification form and compilation of the necessary back-up documents. This would generally include deeds, resolutions of necessity, final orders of condemnation, access agreements, cooperative agreements, permits, utility relocation agreements and notices, and utility relocation plans, among other documents.

DELIVERABLES:

- Land Description Packages Signed and Stamped by a California Licensed Professional Land Surveyor
- Waiver Valuations Covering Seven Parcels
- Closed Negotiations or Impasse Letters on up to Seven Parcels

Task 1.7 Traffic Signing and Striping

- Design temporary traffic detour or roadway staging plans.
- Provide traffic control and staging plans for use in construction.
- Design striping, pavement markings, and signage per the latest edition of CAMUTCD.
- Meet ADA standards for pedestrians and bicycle facilities (if any).

Task 1.8 Environmental Permitting

Complete NEPA Scoping Process

In completing this task, GEI will do the following:

3. Scope of Work

- Prepare CEQA/NEPA Project Description.
- Complete the PES Form (with supporting materials) and submit to County/Caltrans.
- Prepare the Area of Potential Effect (APE) Map and submit to County/Caltrans.
- Organize and facilitate an Environmental Field Review meeting (as appropriate) with County/Caltrans team members.

GEI will prepare a draft project description to be used in completing the County's CEQA Categorical Exemption process and the NEPA CE. As part of the project description, the draft APE map will be developed. Using preliminary environmental site data, GEI will prepare and submit a draft Preliminary Environmental Study (PES) form and APE (Footprint Map) map to the County and Caltrans. GEI will also assist the County in scheduling a Field Review (site visit) with Caltrans staff to review the project site and confirm the assumptions outlined in the draft PES form and APE map. Upon completion of the site visit, GEI will revise the draft PES and APE as appropriate and resubmit the final forms/maps to the County and Caltrans staff. If necessary, GEI will discuss any required changes (additions or reductions) to this preliminary scope of work and prepare a final scope of work/cost estimate for County approval prior to commencing the remaining tasks identified under this work program.

Complete NEPA Technical Studies

GEI anticipates scoping results will identify the need for the following technical studies:

- Area of Potential Effect Map (Provided with PES Form)
- Historic Property Survey Report/Archaeological Survey Report (Optional)
- Initial Site Assessment (Phase I)
- Natural Environment Study (Minor Impact focusing on protected/migratory bird issues/roadside vegetation impacts)

Technical study work scopes and assumptions include:

Natural Environment Study Report (Minor Impact)

Land uses surrounding the project sites range from open space to agricultural land uses with some interspersed development (including utility lines, non-native vegetation, and farming/residential structures) surrounding the project intersections. GEI will prepare a Natural Environment Study (NES) Minor Impact focusing on vegetation and nesting or migratory bird species. These bird species are protected from nest disturbance during the breeding season by the Migratory Bird Treaty Act. The NES will be prepared to address these species and other special-status species and sensitive habitats with the potential to be impacted by the proposed project. Water quality issues and invasive plant species effects will also be included as part of the NES. Key assumptions include the following:

- The scope of work does not include protocol-level surveys or exclusion and/or relocation efforts for listed species. If deemed necessary, GEI is qualified and available to provide those services upon request by the County.
- Scope assumes two rounds of review and comments (administrative draft and draft) by Caltrans/County staff.

Archaeological Survey Report and Historic Property Survey Report

Several technical reports may be required to address cultural resources. These reports include an Archaeological Survey Report (ASR) and a Historic Properties Survey Report (HPSR). Working with Caltrans, GEI will assist County staff to comply with: (1) Section 106 of the National Historic Preservation Act of 1966 (36 CFR 800, revised 1999); and (2) CEQA; Public Resources code, Section 21000 et seq., revised January 1999), which mandate federal and California public agencies to consider the effects of projects on historic properties. Compliance with Section 106 is being carried out in accordance with the January 1, 2004, Programmatic Agreement Among the FHWA, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and Caltrans Local Assistance. Tasks to be undertaken by GEI include:

- Background Research. Pre-field investigations will begin with a record search at the California Historical Resources Information System (CHRIS) at the Central California Information Center (CCIC) at California State University, Bakersfield. The records search will identify previously recorded resources within or near the study area and determine whether the study area has been previously surveyed up to current standards. In addition to the CHRIS search, GEI will assist Caltrans on Native American consultation, which will consist of draft letters for the Native American Heritage Commission (NAHC) and those groups and individuals whose contact information is provided by the NAHC. These contacts are intended to determine if project locations are known to be of particular concern to local Native Americans.

3. Scope of Work

- Buried Site Sensitivity Study. A preliminary archaeological assessment of the potential for buried archaeological sites in the study area will be conducted using relevant maps and documents (e.g., archaeological studies, geologic reports, Quaternary geologic maps, Kings County Soil Survey). The assessment results will be developed in a GIS format and presented as a map that shows the age and extent of archaeologically sensitive landforms in and near the study area. The map will be accompanied by text that describes the map units and explains the estimated archaeological potential of each.
- Pedestrian Survey. Fieldwork would entail intensive pedestrian survey of the APE. All areas of exposed ground would be closely inspected for the presence of cultural materials.
- Documentation. Once the field phase is completed, GEI will prepare a negative or positive ASR, and an HPSR will be prepared, depending on findings. Our current scope assumes no new resources will require identification, as the project design is considered minimal. The ASR/HPSR will be prepared that includes appropriate background research, site records, and recommendations for additional work. Both reports will include results of background research, descriptions of fieldwork, findings, appropriate maps and photos, and a record of Native American contact. GEI will coordinate with Caltrans cultural resource personnel assigned to the project and provide support to the County for permit requirements. Key assumptions include the following:
 - » GEI will prepare a cost estimate based upon anticipated number of resources within the APE and will need to revise the estimate if the APE is expanded or additional resources require evaluation. GEI will record up to three resources (archaeological sites, bridge, built environment) or isolates over 50 years of age on DPR 523 forms.
 - » The cultural resources assessment work presented herein does not include any archaeological Extended Phase I or Phase II work to formally evaluate National Register significance for any site.
 - » GEI assumes no historic architectural resources would be located within the APE or affected by the proposed project. In the event that the APE is altered to include a historical architectural resource, an optional task could be implemented to analyze and evaluate this resource and determine the potential impacts of the proposed project on the site, as well as potential mitigation options to avoid or lessen impacts.

Complete CEQA Process

Using the environmental information collected under Tasks 1 and 2, GEI will assist the County in completing the CEQA CE process and any related AB52 compliance activities.

Task 1.9 Design Services

60% PS&E

- Prepare and deliver 60% improvement design drawings, for evaluation by County Staff. This will be a complete set of drawings for work to be performed, including the following:
 - » Cover Sheet
 - » General Notes
 - » Construction Details
 - » Horizontal Control Plan (20' Scale)
 - » Grading and Paving Plan (20' Scale)
 - » Signage and Striping Plan
 - » Erosion Control Plan
 - » Prepare Technical Specifications
 - » Prepare an Engineer's Estimate

90% PS&E

- Based on the County's review comments from the 60% submittal, we will produce and deliver 90% improvement design drawings, technical specifications, and engineer's estimate for review and approval by County Staff.

Final PS&E

- Upon approval of the 90% PS&E, we will produce and deliver the final PS&E package for bidding.

DELIVERABLES:

- 60% PS&E (24"x 36" Format and PDF)

3. Scope of Work

- 90% PS&E (24"x 36" Format and PDF)
- Final PS&E (24"x36" Mylar Format and Electronic Copies in PDF and ACAD Format)

Task 2 Bidding and Construction Support

Task 2.1 Assistance During Construction Bidding Process

- Review and provide responses to civil related RFIs during the bid period.
- Assist County with preparing any addenda during the bid period.

Task 2.2 Design Support During Construction

- Review and approve material submittals.
- Review and respond to RFIs.
- Assist County with review of any contractor change order requests.
- Assist in construction inspection.

Task 2.3 Construction Staking During Construction

- Prepare Record Drawings based on the contractor provided mark-ups.
- Left-Turn Lane Locations
 - » Provide one set of Construction stakes for Proposed Limits of Work and Existing Right-of-Way at 100-foot intervals.
 - » Provide one set of Rough Grade stakes for Proposed Edge of Pavement at 50-foot intervals.
 - » Provide one set of Finish Grade stakes for Proposed Edge of Pavement at 50-foot intervals.
 - » This task is limited to five (5) mobilizations.
- Flashing Beacon Locations
 - » Provide one set of Construction stakes for Proposed Limits of Work and Existing Right-of-Way at 100-foot intervals at each of these four sites where flashing beacons will be installed.
 - » Provide Construction stakes for each flashing beacon. Three stakes will be provided per beacon (an actual and two 10-foot straddlers).
 - » This task is limited to four (4) mobilizations.

DELIVERABLES:

- Response to RFIs
- Response to Technical Submittals
- Meeting Notes
- Construction Stakes as Noted Above

Client to Provide

- Access to private property, if required
- Boilerplate of front-end documents
- County utility base maps
- As-built plans, if available
- Geotechnical Reports, if available
- Inspection and construction management
- All agency fees
- USA requests, if required

**EXHIBIT B
COST PROPOSAL**

EXHIBIT C
INSURANCE REQUIREMENTS

EXHIBIT D

PROFESSIONAL SERVICES CONTRACTS INSURANCE REQUIREMENTS

A. Insurance

Without limiting County's right to obtain indemnification from the Contractor or any third parties, prior to commencement of work, Contractor shall purchase and maintain the following types of insurance for minimum limits indicated during the term of this Agreement and provide a Certificate of Endorsement from Contractor's Insurance Carrier guaranteeing such coverage to the County. Such Certificate shall be mailed as set forth under Section 25. Notice. In the event Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

1. Commercial General Liability. Two Million Dollars (\$2,000,000) per occurrence and Five Million Dollars (\$5,000,000) annual aggregate covering bodily injury, personal injury and property damage. The County and its officers, employees and agents shall be endorsed to above policies as additional insured, using ISO form CG 20 26 or an alternate form that is at least as broad as form CG 20 26, as to any liability arising from the performance of this Agreement.
2. Automobile Liability. Comprehensive Automobile Liability Insurance with limits for bodily injury of not less than Five Hundred Thousand Dollars (\$500,000) per person, One Million Dollars (\$1,000,000) per accident and for property damages not less than One Hundred Thousand Dollars (\$100,000), or such coverage with a combined single limit of One Million Dollars (\$1,000,000). Coverage should include owned and non-owned vehicles used in connection with this Agreement.
3. Workers Compensation. Statutory coverage, if and as required under the California Labor Code. The policy shall be endorsed to waive the insurer's subrogation rights against the County.
4. Professional Liability. One Million Dollars (\$1,000,000) limit per occurrence or claim and Three Million Dollars (\$3,000,000) annual aggregate limit covering Contractor's wrongful acts, errors and omissions.

B. Insurance Conditions

1. Insurance is to be placed with admitted insurers rated by A.M. Best Co. as A:VII or higher. Lower rated, or approved but not admitted insurers, may be accepted if prior approval is given by the County's Risk Manager.
2. Each of the above required policies shall be endorsed to provide County with thirty (30) days prior written notice of cancellation. County is not liable for the payment of premiums or assessments on the policy. No cancellation provisions in the insurance policy shall be construed in derogation of the continuing duty of Contractor to furnish insurance during the term of this Agreement.

EXHIBIT D
CERTIFICATION OF CONSULTANT

EXHIBIT E

CERTIFICATION OF CONSULTANT

I HEREBY CERTIFY that I am the Principal in Charge and duly authorized representative of the firm O'Dell Engineering, Inc., whose address is 7110 N. Fresno Street, #160, Fresno, California 93720 and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- (a) employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this agreement; nor
- (b) agreed, as an expressed or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor
- (c) paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out this agreement.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this agreement involving the participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

10/25/2023

Date:

DocuSigned by:

Dylan Crawford

913D9ADE60C9409...

Dylan Crawford, P.L.S.
President
O'Dell Engineering, Inc.

EXHIBIT E
CERTIFICATION OF LOCAL AGENCY

EXHIBIT E

CERTIFICATION OF LOCAL AGENCY

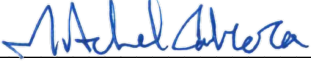
I HEREBY CERTIFY that I am the Contract Administrator of the County of Kings, and that the consulting firm of PETERS ENGINEERING GROUP or its representative has not been required (except as herein expressly stated), directly or indirectly, as an expressed or implied condition in connection with obtaining or carrying out this Agreement for the HSIP CYCLE 9 SAFETY IMPROVEMENTS PROJECT, pre-construction activities and monitoring during and after construction per the environmental document prepared and permits obtained for this project:

(a) Employ, retain, agree to employ or retain, any firm or person; or

(b) Pay or agree to pay, to any firm, person or any organization, any fee, contribution, donation or consideration of any kind.

I acknowledge that this Certificate is to be made available to the California Department of Transportation (Caltrans) in connection with this Agreement involving participation of Federal-aid Highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

11/13/2023
Date



Mitchel Cabrera, P.E.
Chief Engineer
County of Kings Department of Public Works

EXHIBIT F
STATE CONTRACT REQUIREMENTS

EXHIBIT F
STATE CONTRACT REQUIREMENTS

1. Definitions:

Address means the address given in the Notices section of the Agreement.

Amount means the amount of total compensation set forth in the Compensation section of the Agreement.

Contract means the Agreement to which this Exhibit is attached.

Contract Administrator means that individual named in the Notices section of the Agreement.

Date means the date first written in the Agreement.

Local Agency means County as set forth in the Agreement.

ARTICLE IV PERFORMANCE PERIOD

A. This contract shall go into effect on DATE, contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The contract shall end five (5) years from the date of execution, unless extended by contract amendment.

B. CONSULTANT is advised that any recommendation for contract award is not binding on LOCAL AGENCY until the contract is fully executed and approved by LOCAL AGENCY.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

A. The method of payment for this contract will be based on lump sum. The total lump sum price paid to CONSULTANT will include compensation for all work and deliverables, including travel and equipment described in Article II Statement of Work of this contract. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and LOCAL AGENCY. Adjustment in the total lump sum compensation will not be effective until authorized by contract amendment and approved by LOCAL AGENCY.

B. Progress payments may be made monthly in arrears based on the percentage of work completed by CONSULTANT. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.

EXHIBIT F

C. CONSULTANT shall not commence performance of work or services until this contract has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this contract.

D. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit, upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice should be submitted within 60-calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

County of Kings Department of Public Works

Mitchel Cabrera, P.E., Chief Engineer

1400W. Lacey Boulevard, Building #6

Hanford, CA 93230

E. The total amount payable by LOCAL AGENCY shall not exceed \$222,551.

ARTICLE VI TERMINATION

A. LOCAL AGENCY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.

B. LOCAL AGENCY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, LOCAL AGENCY may proceed with the work in any manner deemed proper by LOCAL AGENCY. If LOCAL AGENCY terminates this contract with CONSULTANT, LOCAL AGENCY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to LOCAL AGENCY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.

C. The maximum amount for which the LOCAL AGENCY shall be liable if this contract is terminated is Amount dollars.

EXHIBIT F

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allow ability of individual items.

B. CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to LOCAL AGENCY.

ARTICLE VIII RETENTION OF RECORDS/AUDIT

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; CONSULTANT, subconsultants, and LOCAL AGENCY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials 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. The state, State Auditor, LOCAL AGENCY, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and it's certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

ARTICLE IX AUDIT REVIEW PROCEDURES

A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.

B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.

C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance

EXHIBIT F

with the terms of this contract.

D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY contract manager to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

ARTICLE X SUBCONTRACTING

A. Nothing contained in this contract or otherwise, shall create any contractual relation between LOCAL AGENCY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.

B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY.

D. All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.

E. Any substitution of subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator prior to the start of work by the subconsultant(s).

ARTICLE XI EQUIPMENT PURCHASE

EXHIBIT F

A. Prior authorization in writing, by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.

B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by LOCAL AGENCY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.

C. Any equipment purchased as a result of this contract is subject to the following: "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

ARTICLE XII STATE PREVAILING WAGE RATES

A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.

B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.

C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

EXHIBIT F

ARTICLE XIII CONFLICT OF INTEREST

A. CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this contract, or any ensuing LOCAL AGENCY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing LOCAL AGENCY construction project, which will follow.

B. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.

C. CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

D. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

CONSULTANT warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE XV PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING

A. CONSULTANT certifies to the best of his or her knowledge and belief that:

1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a

EXHIBIT F

Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

EXHIBIT G
EXHIBIT 10-02



COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 852-2362
Catherine Venturella, Clerk of the Board of Supervisors

AGENDA ITEM December 5, 2023

SUBMITTED BY: Administration – Kyria Martinez/Matthew Boyett

SUBJECT: PURCHASE OF AVENAL COURTHOUSE

SUMMARY:

Overview:

The County is looking to purchase real property from the State of California located at 501 East King Street in Avenal, California, commonly known as the Avenal Courthouse property.

Recommendation:

- a. Approve the Purchase and Sale Agreement with the State of California for real property located at 501 East King Street in Avenal, California;
- b. Approve the Grant Deed with the State of California granting the County the rights, title, and interest in real property located at 501 East King Street in Avenal, California;
- c. Approve the Termination of Joint Occupancy Agreement with the State of California for real property located at 501 East King Street in Avenal, California.

Fiscal Impact:

The County has negotiated a purchase price of \$212,865 with the State for the State's share of the Avenal Courthouse. The purchase will be paid out of General Contingencies in Budget Unit 990000.

BACKGROUND:

In 2008, the State took over 58.01% interest in the property during the Trial Court reorganization. The County has retained 41.99% interest in the property and currently operates the Avenal Branch Library from this location. The County is looking to purchase the State of California's share in the property. The County has attempted to negotiate with the State previously on taking ownership of the entire property, however, change in staffing coupled with the pandemic has not allowed the completion of the sale until recently this year when the State inquired if the County was still interested in the purchase.

(Cont'd)

BOARD ACTION :

APPROVED AS RECOMMENDED: _____ OTHER: _____

I hereby certify that the above order was passed and adopted
on _____, 2023.

CATHERINE VENTURELLA, Clerk to the Board

By _____, Deputy.

Agenda Item

PURCHASE OF AVENAL COURTHOUSE

December 5, 2023

Page 2 of 2

The Assessor's Parcel Numbers (APNs) for the property up for consideration are 040-165-007, 040-165-011, and 040-165-012.

The sale documents have been reviewed and approved by County Counsel as to form.

Location: 501 E. Kings Street
Avenal, CA 93204
APN(s): 040-165-007, -011 & -012
County: Kings

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (“**Agreement**”) is made and entered into as of _____, 20__ (“**Effective Date**”), by and between the STATE OF CALIFORNIA (“**GRANTOR**”) and the COUNTY OF KINGS (“**GRANTEE**”). GRANTOR and GRANTEE may hereafter be individually referred to as a “**PARTY**” and collectively referred to as the “**PARTIES.**”

RECITALS

- A. GRANTOR owns that certain real property located in the State of California, County of Kings, City of Avenal, with a street address of 501 East Kings Street, Assessor’s Parcel Numbers 040-165-007, 040-165-011, and 040-165-012, as more particularly described in **Exhibit “A,”** attached hereto and made a part hereof, and the building located thereon commonly known as the Avenal Courthouse (“**Property**”) that has been used as a court facility by the Superior Court of California, County of Kings (“**Court**”).
- B. Pursuant to the Trial Court Facilities Act of 2002 (Government Code section 70301 et seq.), GRANTEE has a 41.99% equity interest in the Property.
- C. Pursuant to the general grant of authority under Government Code section 70391 and the specific grant of authority in Government Code section 70396, GRANTOR has the authority to sell the Property to GRANTEE and to deposit the net proceeds from the sale of the Property (e.g., 58.01%) into the State Court Facilities Construction Fund as prescribed thereby. GRANTEE is authorized to acquire the Property in accordance with Government Code section 25350.
- D. GRANTOR desires to sell the Property to GRANTEE and GRANTEE desires to purchase the Property from GRANTOR pursuant to the terms of this Agreement.

NOW THEREFORE, in consideration of the foregoing Recitals and for other good and valuable consideration, the PARTIES agree as follows:

AGREEMENT

1. Incorporation of Recitals. The foregoing provisions of the Recitals are true and correct and are incorporated into this Agreement by this reference.
2. Transaction Summary. For good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, GRANTOR agrees to sell to GRANTEE, and GRANTEE agrees to purchase from GRANTOR, fee title interest in the Property under the terms and conditions of this Agreement.
3. Purchase Price. GRANTEE agrees to pay Two Hundred Twelve Thousand Eight Hundred Sixty-Five and 37/100 Dollars (\$212,865.37) (“**Purchase Price**”), which the PARTIES acknowledge and agree accounts for GRANTOR’s 58.01% equity interest in the Property and represents the fair market value thereof. GRANTEE shall pay the Purchase Price into escrow with Stewart Title, at 525 N. Brand Blvd, Glendale, CA 91203 (“**Escrow Holder**”) for the account of GRANTOR, pursuant and subject to the conditions outlined in this Agreement. GRANTEE shall deposit with Escrow Holder sufficient funds to cover the Purchase Price plus GRANTEE’s share of all escrow costs. The Purchase Price shall be due and payable at the Close of Escrow, subject to the conditions set forth in this Agreement.
4. Other Liens. Escrow Holder may expend any or all monies payable under this Agreement to discharge any obligations which are liens upon the Property including, but not limited to, those arising from judgments, assessments, taxes, or debts secured by deeds of trust or mortgages and/or to defray any other incidental costs other than those specified in section 5 (*Escrow and Recording Fees*) of this Agreement to be borne by GRANTEE.
5. Escrow and Recording Fees. GRANTOR and GRANTEE shall each pay one-half of the escrow fees. GRANTOR and GRANTEE shall each be responsible to pay all costs for services specifically requested for their individual benefit. In addition, GRANTEE shall pay any costs related to premiums and endorsements with respect to title insurance for the Property. Any escrow and/or closing costs that GRANTOR pays through escrow including, without limitation, those costs which Escrow Holder pays pursuant to section 4 (*Other Liens*) of this Agreement and/or which GRANTOR pays pursuant to this section shall be referred to herein as “**GRANTOR Closing Costs.**”
6. Title and Establishment of Escrow. Title to said Property shall pass immediately upon Close of Escrow. Within fifteen (15) business days of the Effective Date of this Agreement, an escrow shall be opened with Escrow Holder to consummate the purchase of the Property pursuant to this Agreement. GRANTOR shall open the escrow by delivering a fully executed counterpart of this Agreement to Escrow

Holder. In addition, the PARTIES agree to execute, deliver, and be bound by any reasonable or customary supplemental escrow instructions of Escrow Holder, or other instruments as may reasonably be required by Escrow Holder, in order to consummate the transaction contemplated by this Agreement. Any such supplemental instructions shall not amend or supersede any portion of this Agreement. If there is any inconsistency between such supplemental instructions and this Agreement, this Agreement shall control.

7. “As Is” Purchase; Release.

- a. “As Is” Purchase. As a material inducement to GRANTOR’s execution and delivery of this Agreement and performance of its duties under this Agreement:

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, GRANTEE HAS AGREED TO ACCEPT POSSESSION OF THE PROPERTY UPON THE CLOSE OF ESCROW ON AN “AS IS” BASIS. GRANTOR AND GRANTEE AGREE THAT THE PROPERTY WILL BE SOLD “AS IS, WHERE IS, AND WITH ALL FAULTS” WITH NO RIGHT OF SET-OFF OR REDUCTION IN THE PURCHASE PRICE, AND, EXCEPT AS SET FORTH IN SECTION 11 (*GRANTOR’S REPRESENTATIONS AND WARRANTIES*) OF THIS AGREEMENT, SUCH SALE WILL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, WARRANTY OF INCOME POTENTIAL, OPERATING EXPENSES, USES, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE), AND GRANTOR DISCLAIMS AND RENOUNCES ANY SUCH REPRESENTATION OR WARRANTY.

- b. Release. Effective from and after the Close of Escrow, GRANTEE hereby waives, releases, acquits, and forever discharges GRANTOR and GRANTOR’s agents, directors, officers, and employees, to the maximum extent permitted by law, of and from any and all claims, actions, causes of action, demands, rights, liabilities, damages, losses, costs, expenses, or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, that it now has or that may arise in the future because of or in any way arising out of or connected with this Agreement or the Property (including, without limitation, the condition of the Property), except matters arising solely from GRANTOR’s fraud or intentional misrepresentation.

GRANTEE expressly waives any rights or benefits available to it with respect to the foregoing release under any provision of applicable law which generally provides that a general release does not extend to claims which the

creditor does not know or suspect to exist in his or her favor at the time the release is agreed to, which, if known to such creditor, would materially affect a settlement. GRANTEE, by the execution of this Agreement, acknowledges that it fully understands the foregoing and, with this understanding, nonetheless elects to and does assume all risk for losses known or unknown, described in this section, the provisions of which shall survive the Close of Escrow. Without limiting the generality of the foregoing:

THE UNDERSIGNED ACKNOWLEDGES THAT IT HAS BEEN ADVISED BY LEGAL COUNSEL AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES AS FOLLOWS:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

THE UNDERSIGNED, BEING AWARE OF THIS CODE SECTION, HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE THEREUNDER AS WELL AS UNDER ANY OTHER STATUTES OR COMMON LAW PRINCIPLES OF SIMILAR EFFECT.

GRANTOR’s Initials: _____

GRANTEE’s Initials: _____

- 8. Close of Escrow. Escrow shall be scheduled to close on or before sixty (60) days from the Effective Date of this Agreement (“Close of Escrow”), subject to any reasonable extension(s) mutually agreed upon by the PARTIES in writing. Upon the Close of Escrow, Escrow Holder shall distribute the net proceeds from the sale consisting of the Purchase Price less any GRANTOR Closing Costs to the Judicial Council of California, and shall record in the Official Records the following documents as sequenced: (i) Termination of Joint Occupancy Agreement, and (ii) Grant Deed (both as defined below).
- 9. GRANTOR’s Conditions Precedent. GRANTOR’s obligation to perform under this Agreement and the Close of Escrow shall be subject to and contingent upon

satisfaction of each of the following conditions precedent prior to the Close of Escrow:

- a. The timely deposit by GRANTEE with Escrow Holder of all documents and funds required to be deposited by GRANTEE under this Agreement.
- b. Performance by GRANTEE of all obligations, covenants, and agreements on GRANTEE's part to be performed under this Agreement within the time provided in this Agreement for such performance.

10. GRANTEE's Conditions Precedent. GRANTEE's obligation to perform under this Agreement and the Close of Escrow shall be subject to and contingent upon satisfaction of each of the following conditions precedent prior to the Close of Escrow:

- a. The timely deposit by GRANTOR with Escrow Holder of all documents required to be deposited by GRANTOR under this Agreement.
- b. Performance by GRANTOR of all obligations, covenants, and agreements on GRANTOR's part to be performed under this Agreement within the time provided in this Agreement for such performance.

11. GRANTOR's Representations and Warranties. In addition to any express agreements of GRANTOR contained herein, the following constitutes representations and warranties of GRANTOR to GRANTEE:

- a. Representations Regarding GRANTOR's Authority.
 - (1) GRANTOR has full right, power, and legal authority to enter into this Agreement; to sell, transfer, and convey the Property to GRANTEE pursuant to this Agreement and the instruments referenced herein; and to consummate the transactions contemplated hereby.
 - (2) The individuals executing this Agreement and the instruments referenced herein on behalf of GRANTOR have the legal power, right, and actual authority to bind GRANTOR to the terms and conditions hereof and thereof.
 - (3) This Agreement and all other instruments, documents, and agreements required to be executed and delivered by GRANTOR in connection with this Agreement are and shall be duly authorized, executed, and delivered by GRANTOR and shall be valid, legally binding obligations of and enforceable against GRANTOR in

accordance with their terms and do not, and as of the Close of Escrow will not, violate any provisions of any agreement, law, rule, regulation, or judicial order to which GRANTOR or the Property is subject.

b. Warranties and Representations Pertaining to Property and Legal Matters.

- (1) There is no suit, action, arbitration, legal, administrative, or other proceeding or inquiry pending against the Property or pending against GRANTOR which could affect GRANTOR's title to the Property.
- (2) GRANTOR has not entered into any other contracts for the sale of the Property with any third parties, nor do there exist any rights of first refusal, reversions, or options to purchase the Property or any portion of the Property therewith. GRANTOR is not party to nor subject or bound by any agreement, contract, or lease of any kind with any third parties relating to the Property which would impose an obligation on GRANTEE or otherwise affect marketability of title to the Property.
- (3) As of the Close of Escrow, there shall be no unrecorded leases, licenses, or other agreements entered into by GRANTOR which would grant any third party or entity the right to use or occupy any portion of the Property, including any improvements thereon, and no improvements on the Property that encroach upon the property of a third party.
- (4) There are no and have been no uncured notices from any governmental agency notifying GRANTOR of any violations of law, ordinance, rule, or regulation occurring on the Property.

c. Warranties, Representations, and Covenants Regarding Operation of the Property Through Close of Escrow.

- (1) GRANTOR hereby agrees that GRANTOR will not, after the Effective Date of this Agreement, enter into new leases or any other obligations or agreements affecting the Property without the prior written consent of GRANTEE, which consent GRANTEE may withhold or grant in its absolute discretion.
- (2) GRANTOR will not subject the Property to any additional liens, encumbrances, covenants, conditions, easements, rights of way, or similar matters after the Effective Date of this Agreement that will not be eliminated prior to the Close of Escrow.

- (3) GRANTOR shall promptly notify GRANTEE of any event or circumstance that makes any representation or warranty of GRANTOR under this Agreement untrue or misleading, or of any covenant of GRANTOR under this Agreement incapable or less likely of being performed. It is understood that the GRANTOR's obligation to provide notice to GRANTEE shall in no way relieve GRANTOR of any liability for a breach by GRANTOR of any of its representations, warranties, or covenants under this Agreement.
- d. Representations Pertaining to Additional Documents. There are no leases, subleases, or tenancies with any third parties in effect pertaining to the Property.
- e. General Representation. No representation, warranty, or statement of GRANTOR in this Agreement or in any document, certificate, or schedule furnished or to be furnished to GRANTEE pursuant hereto contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.

GRANTOR's representations and warranties made in this Agreement shall be continuing and shall be true and correct as of the date of the Close of Escrow with the same force and effect as if remade by GRANTOR in a separate certificate at that time. The truth and accuracy of GRANTOR's representations and warranties made herein shall constitute a condition for the benefit of GRANTEE to the Close of Escrow (as elsewhere provided herein) and shall not merge into the Close of Escrow or the recordation of the Grant Deed in the Official Records, and shall survive the Close of Escrow for a period of four (4) years.

12. GRANTEE's Representations and Warranties. In addition to any express agreements of GRANTEE contained herein, the following constitutes representations and warranties of GRANTEE to GRANTOR:
 - a. Representations Regarding GRANTEE's Authority.
 - (1) GRANTEE has full power, right, and legal authority to enter into this Agreement; to buy and accept the Property from GRANTOR pursuant to this Agreement and the instruments referenced herein; and to consummate the transactions contemplated hereby.
 - (2) The individuals executing this Agreement and the instruments referenced herein on behalf of GRANTEE have the legal power, right,

and actual authority to bind GRANTEE to the terms and conditions hereof and thereof.

(3) This Agreement and all other instruments, documents, and agreements required to be executed and delivered by GRANTEE in connection with this Agreement are and shall be duly authorized, executed, and delivered by GRANTEE and shall be valid, legally binding obligations of and enforceable against GRANTEE in accordance with their terms and do not, and as of the Close of Escrow will not, violate any provisions of any agreement, law, rule, regulation, or judicial order to which GRANTEE is subject.

b. General Representation. No representation, warranty, or statement of GRANTEE in this Agreement or in any document, certificate, or schedule furnished or to be furnished to GRANTOR pursuant hereto contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary to make the statements or facts contained therein not misleading.

GRANTEE's representations and warranties made in this Agreement shall be continuing and shall be true and correct as of the date of the Close of Escrow with the same force and effect as if remade by GRANTEE in a separate certificate at that time. The truth and accuracy of GRANTEE's representations and warranties made herein shall constitute a condition for the benefit of GRANTOR to the Close of Escrow (as elsewhere provided herein) and shall not merge into the Close of Escrow or the recordation of the Grant Deed in the Official Records, and shall survive the Close of Escrow for a period of four (4) years.

13. Additional Terms of Sale.

a. Loss, Destruction, and Condemnation. The PARTIES agree that the following provisions shall govern the risk of loss, destruction, and condemnation of the Property:

(1) If, before GRANTOR transfers legal title to or possession of the Property, all or a material part of the Property is destroyed without fault of GRANTEE, or is taken by eminent domain by any governmental entity, GRANTEE shall be entitled to terminate its obligations under this Agreement by written notice to GRANTOR and GRANTOR shall not have the right to enforce this Agreement against GRANTEE. If GRANTEE does not elect to terminate this Agreement, then GRANTEE shall, as applicable, either: (a) proceed

to close as provided herein with the Purchase Price being reduced as applicable and, in the case of any eminent domain proceedings, by the total of any awards or other proceeds received or assured to be received by GRANTOR as a result of such proceedings; or (b) proceed to close as provided herein with an assignment as applicable by GRANTOR of all of the GRANTOR's applicable rights, title, and interest in and to all such eminent domain awards and proceeds subject to any rights of GRANTEE therein. GRANTOR will promptly notify GRANTEE in writing of any eminent domain proceedings affecting the Property.

(2) If, after GRANTOR transfers legal title of the Property to GRANTEE at the Close of Escrow, all or any part of the Property is destroyed without fault of GRANTOR, or is taken by eminent domain by any governmental entity, GRANTEE is not relieved from GRANTEE's obligation under this Agreement to pay the full Purchase Price for the Property.

- b. Title Evidence. Any title evidence, which may be desired by GRANTEE, will be procured by GRANTEE. GRANTOR will cooperate with GRANTEE or its authorized agent in connection therewith, and will permit examination and inspection of any deeds, abstracts, affidavits of title, judgments in condemnation proceedings, or other documents relating to the title of the Property that GRANTOR may have available. It is understood that GRANTOR will not be obligated to pay for any expense incurred in connection with any title matters or survey of the Property.
- c. Termination of JOA. Concurrently with the execution of this Agreement, GRANTOR and GRANTEE shall each execute the document entitled "**Termination of Joint Occupancy Agreement**," in substantially the same form of **Exhibit "B"** attached hereto and made a part hereof, terminating that certain Joint Occupancy Agreement, dated December 31, 2008, between GRANTOR and GRANTEE relating to the Property.
- d. Grant Deed. On the Close of Escrow, GRANTOR shall convey title to the Property to GRANTEE by recordation of the grant deed for the Property ("**Grant Deed**") in substantially the same form as **Exhibit "C,"** attached hereto and made a part hereof.
- e. Other Documents. As required and only if applicable, GRANTOR shall prepare or cause to be prepared the following documents:

- (1) One (1) Affidavit of Nonforeign Status (FIRPTA Affidavit) for the Property;
- (2) One (1) Real Estate Withholding Certificate (Form 593-C) for the Property;
- (3) One (1) Preliminary Change of Ownership Report (PCOR) for the Property; and
- (4) Such other documents as are deemed reasonably necessary by the PARTIES or Escrow Holder in order to consummate the transaction contemplated by this Agreement.

14. Notices. Any notice, tender, delivery, or other communication required pursuant to this Agreement must be in writing and, to be deemed to be properly given, shall be either: (i) personally delivered; (ii) mailed by depositing such notice in the United States mail, first class postage prepaid; or (iii) sent by reputable overnight delivery service, addressed as follows or to such other place as each PARTY hereto may designate by subsequent written notice to the other PARTY:

If to GRANTOR:

Judicial Council of California
Facilities Services
Attn: Manager, Real Estate
2860 Gateway Oaks Drive, Suite 400
Sacramento, CA 95833
Voice: 916-263-7999

With a copy to:

Judicial Council of California
Legal Services
Attn: Supervising Attorney, Real Estate Unit
455 Golden Gate Avenue, 5th Floor
San Francisco, CA 94102

If to GRANTEE:

County of Kings
Attn: Kyria Martinez, County Administrative Officer
1400 W. Lacey Blvd.
Hanford, CA 93230
Voice: 559-852-2377
E-Mail: Kyria.Martinez@co.kings.ca.us

With a copy to:

County of Kings
Attn: Diane Freeman, County Counsel
1400 West Lacey Blvd., Law Bldg. #4
Hanford, CA 93230
Voice: 559-852-2450
E-Mail: Diane.Freeman@co.kings.ca.us

15. Assignment. GRANTOR shall have the right to assign its interest and obligations together under this Agreement at any time prior to the Close of Escrow; provided, however, that any valid assignment shall not relieve GRANTOR or the assignee from the performance of its duties and obligations, or of its representations and warranties, hereunder. Written notice of any intended assignment by GRANTOR shall be given to GRANTEE thirty (30) days prior to the effective date of assignment. GRANTEE may only assign its interest under this Agreement prior to the Close of Escrow with the express, prior written consent of GRANTOR, in GRANTOR's sole discretion.
16. Calculation of Time. Under this Agreement, when the day upon which performance would otherwise be required or permitted is a Saturday, Sunday, or holiday, then the time for performance shall be extended to the next day which is not a Saturday, Sunday, or holiday. The term "holiday" shall mean all and only those State holidays specified in section 6700 of the California Government Code.
17. Time of Essence. Time is of the essence of this Agreement and each and every provision hereof in which time is an element.
18. Waiver. No waiver of any provision of this Agreement shall be considered a waiver of any other provision or of any subsequent breach of the same or any other provision, including the time for performance of any such provision. The exercise by either PARTY of any remedy provided in this Agreement or at law shall not

prevent the exercise by that PARTY of any other remedy provided in this Agreement or at law or in equity.

19. Entire Agreement. This Agreement and attached exhibits shall constitute the entire understanding and agreement of the PARTIES hereto regarding the purchase and sale of the Property, and all prior agreements, understandings, representations, or negotiations, whether oral or written, are hereby superseded, terminated, and canceled in their entirety and are of no further force or effect.
20. Amendments. This Agreement may not be modified or amended except in writing signed by the PARTIES.
21. Applicable Law. The PARTIES hereto acknowledge that this Agreement has been negotiated and entered into in the State of California. The PARTIES hereto expressly agree that this Agreement shall in all respects be governed and enforced by the laws of the State of California and any claim to enforce the provisions hereof shall be brought in the Superior Court of California, County of Kings.
22. Severability. Nothing contained herein shall be construed as to require the commission of any act contrary to law and, wherever there is any conflict between any provision contained herein and any present statute, law, ordinance, or regulation as to which the PARTIES have no legal right to contract, the latter shall prevail, but the affected provisions of this Agreement shall be limited only to the extent necessary to bring them within the requirements of such law. It is hereby stipulated and declared to be the intention of the PARTIES that each would have executed all other terms, provisions, covenants, and restrictions set forth in this Agreement without including any such provisions in conflict with law that may be hereafter declared invalid, void, or unenforceable.
23. Captions, Number, and Gender. The captions appearing at the commencement of the sections, paragraphs, and subparagraphs hereof are descriptive only and for convenience in reference. Should there be any conflict between any such caption and the section, paragraph, or subparagraph at the head of which it appears, the section, paragraph, or subparagraph and not the caption shall control and govern the construction of this Agreement. In this Agreement, the masculine, feminine, or neuter gender and the singular or plural number shall each be deemed to include the others whenever the context so requires.
24. Survival. All terms and conditions in this Agreement, which represent continuing obligations and duties of the PARTIES, that have not been satisfied prior to Close of Escrow shall survive Close of Escrow and transfer of title to GRANTEE and shall continue to be binding on the respective obligated PARTY in accordance with their terms. All representations and warranties and statements respectively made by the

PARTIES contained herein or made in writing pursuant to this Agreement are intended to be, and shall remain, true and correct as of the Close of Escrow, shall be deemed to be material, and, together with all conditions, covenants, and indemnities made by the respective PARTIES contained herein or made in writing pursuant to this Agreement (except as otherwise expressly limited or expanded by the terms of this Agreement), shall survive the execution and delivery of this Agreement and the Close of Escrow, or, to the extent the context requires, beyond any termination of this Agreement.

25. Further Action. Each PARTY hereto shall, before the Close of Escrow, duly execute and deliver such papers, documents, and instruments and perform all acts reasonably necessary or proper to carry out and effectuate the terms of this Agreement.
26. Electronic/Facsimile Signatures. Electronic and facsimile signatures shall not be accepted unless prior agreement is obtained in writing by both PARTIES. If agreed by the PARTIES that electronic or facsimile signatures are acceptable, they will be treated as original signatures; however, in no instance shall electronic or facsimile signatures be accepted on any document to be recorded in the Official Records and such documents must bear original signatures.
27. Counterparts. This Agreement may be executed in counterparts (including .PDF copies), each of which shall be deemed an original as against the PARTY signing such counterpart and which together shall constitute one and the same instrument.
28. Exhibits. The following Exhibits are attached to this Agreement and incorporated by reference herein.

Exhibit "A": Legal Description of Property

Exhibit "B": Form of Termination of Joint Occupancy Agreement

Exhibit "C": Form of Grant Deed with Certificate of Acceptance

[SIGNATURES ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF, the PARTIES have executed this Purchase and Sale Agreement on the dates indicated below.

GRANTOR:

APPROVED AS TO FORM:
Judicial Council of California,
Legal Services

**STATE OF CALIFORNIA
JUDICIAL COUNCIL OF CALIFORNIA**


By: _____
Name: Kristin Kerr
Title: Supervising Attorney
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

GRANTEE:

APPROVED AS TO FORM:
County Counsel

COUNTY OF KINGS

By: 
Name: Cindy Crose Kliever
Title: Deputy County Counsel
Date: 11/27/2023

By: _____
Name: Kyria Martinez
Title: County Administrative Officer
Date: _____

EXHIBIT "A" TO PURCHASE AND SALE AGREEMENT

LEGAL DESCRIPTION OF PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF KINGS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

Lots 8 and 9 in Block 41 of Avenal, in the County of Kings, State of California, according to the map thereof recorded in Book 3 Page 35 of Licensed Surveyor Plats, together with those portions of Fifth Street and Kings Street (abandoned) which would pass by a conveyance of said land under Section 1112 and 831 of the Civil Code.

EXCEPTING THEREFROM all oil, gas, asphaltum, and other minerals within or underlying said land.

APN: 040-165-007

PARCEL 2:

Parcel 1 and 2 as recorded in Volume 1 at Page 19 of Parcel Maps, Kings County Records. Also being Lots 10, 11 and 12 of Block 41 of Avenal, according to the map thereof recorded in Book 3 at Page 35 of Licensed Surveyor Plats, Kings County Records, together with those portions of Kings Street (abandoned) which would pass by a conveyance of said land under Section 1112 and 831 of the Civil Code.

EXCEPTING THEREFROM all oil, gas, asphaltum, and other minerals within or underlying said land.

APN: 040-165-011 AND 012

EXHIBIT "B" TO PURCHASE AND SALE AGREEMENT

**FORM OF
TERMINATION OF JOINT OCCUPANCY AGREEMENT**

The Termination of Joint Occupancy Agreement shall be substantially similar to the attached form.

**RECORDING REQUESTED BY AND,
WHEN RECORDED, MAIL TO:**

County of Kings
1400 W. Lacey Blvd.
Hanford, CA 93230
Attention: County Administrative Officer

OFFICIAL STATE BUSINESS – EXEMPT FROM RECORDING FEES PURSUANT TO GOVERNMENT CODE SECTION 27383 AND DOCUMENTARY TRANSFER TAX PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.	SPACE ABOVE THIS LINE FOR RECORDER’S USE ONLY
APN: 040-165-007, 040-165-011 & 040-165-012; County of Kings	

TERMINATION OF JOINT OCCUPANCY AGREEMENT

This Termination of Joint Occupancy Agreement (“**Termination**”) is made and entered into as of _____, 20____, by and between the Judicial Council of California (“**Judicial Council**”) and the County of Kings (“**County**”). Judicial Council and County may hereafter be individually referred to as a “**Party**” and collectively referred to as the “**Parties.**”

RECITALS

A. The Judicial Council and County entered into that certain Transfer Agreement for the Transfer of Responsibility for and Title to Court Facility, dated December 31, 2008 (“**Transfer Agreement**”), setting forth the terms and conditions of the County’s transfer to the Judicial Council of responsibility for the funding and operation of, and the County’s conveyance to the State of California on behalf of the Judicial Council of title to, the court facility located at 501 East Kings Street, in the City of Avenal, County of Kings, State of California (“**Real Property**”), as more fully described in **Attachment “1”** to this Termination.

B. Concurrently with and pursuant to the Transfer Agreement, the Judicial Council and County also entered into that certain Joint Occupancy Agreement, dated December 31, 2008 (“**JOA**”), setting forth the Parties’ respective rights and obligations with respect to the shared occupancy and use of the Real Property.

C. To memorialize the Parties’ respective rights and duties under the JOA, the Judicial Council and County executed a Memorandum of Joint Occupancy Agreement (“**Memorandum**”), which was recorded in the Official Records of the County of Kings on January 8, 2009, as Document No. 0900297.

D. On July 29, 2014, the Judicial Council of California amended rule 10.81 of the California Rules of Court to substitute the “Judicial Council” for the “Administrative Office of the Courts” or the “AOC” in all contracts, memoranda of understanding, and other legal agreements, documents, proceedings, and transactions, with no prejudice to the substantive rights of any party.

E. The Judicial Council and County subsequently entered into that certain Purchase and Sale Agreement, dated _____, 20____, pursuant to which the County purchased from the Judicial Council, and the Judicial Council sold to the County, title to the Real Property (“**Purchase Agreement**”) as more fully set forth therein.

F. As a result of the Purchase Agreement, the JOA has terminated and is no longer of any force or effect, except for those terms of the JOA that expressly survive the termination thereof.

G. The Parties now desire to record this Termination to memorialize the termination of the JOA and Memorandum, as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. The Parties acknowledge that the above Recitals are true and correct and are incorporated into this Termination by this reference.

2. The JOA and Memorandum are terminated, and are no longer of any force or effect, except for those terms of the JOA that expressly survive the termination thereof.

3. This Termination is to be recorded in the Official Records of the County of Kings with respect to the Real Property, whereupon the Memorandum will automatically be removed as an encumbrance on the title to the Real Property.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Termination of Joint Occupancy Agreement on the dates indicated below.

APPROVED AS TO FORM:
Judicial Council of California,
Legal Services

JUDICIAL COUNCIL OF CALIFORNIA

By: _____
Name: Kristin Kerr
Title: Supervising Attorney
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM:
County Counsel

COUNTY OF KINGS

By: _____
Name: Diane Freeman
Title: County Counsel
Date: _____

By: _____
Name: Kyria Martinez
Title: County Administrative Officer
Date: _____

**ATTACHMENT "1" TO
TERMINATION OF JOINT OCCUPANCY AGREEMENT**

LEGAL DESCRIPTION OF THE REAL PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF KINGS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

Lots 8 and 9 in Block 41 of Avenal, in the County of Kings, State of California, according to the map thereof recorded in Book 3 Page 35 of Licensed Surveyor Plats, together with those portions of Fifth Street and Kings Street (abandoned) which would pass by a conveyance of said land under Section 1112 and 831 of the Civil Code.

EXCEPTING THEREFROM all oil, gas, asphaltum, and other minerals within or underlying said land.

APN: 040-165-007

PARCEL 2:

Parcel 1 and 2 as recorded in Volume 1 at Page 19 of Parcel Maps, Kings County Records. Also being Lots 10, 11 and 12 of Block 41 of Avenal, according to the map thereof recorded in Book 3 at Page 35 of Licensed Surveyor Plats, Kings County Records, together with those portions of Kings Street (abandoned) which would pass by a conveyance of said land under Section 1112 and 831 of the Civil Code.

EXCEPTING THEREFROM all oil, gas, asphaltum, and other minerals within or underlying said land.

APN: 040-165-011 AND 012

JUDICIAL COUNCIL NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

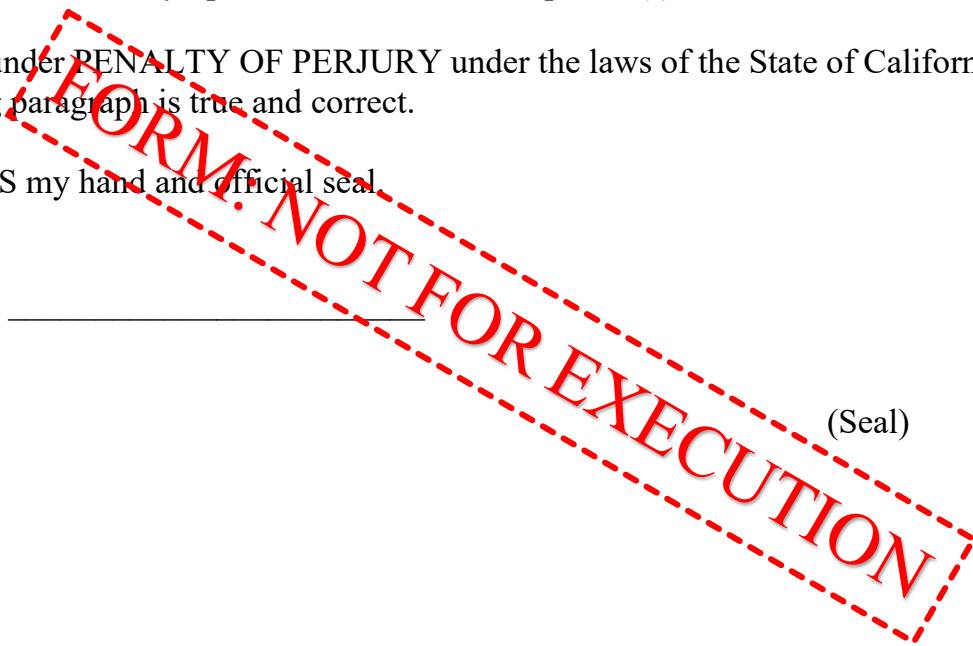
On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)



COUNTY NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

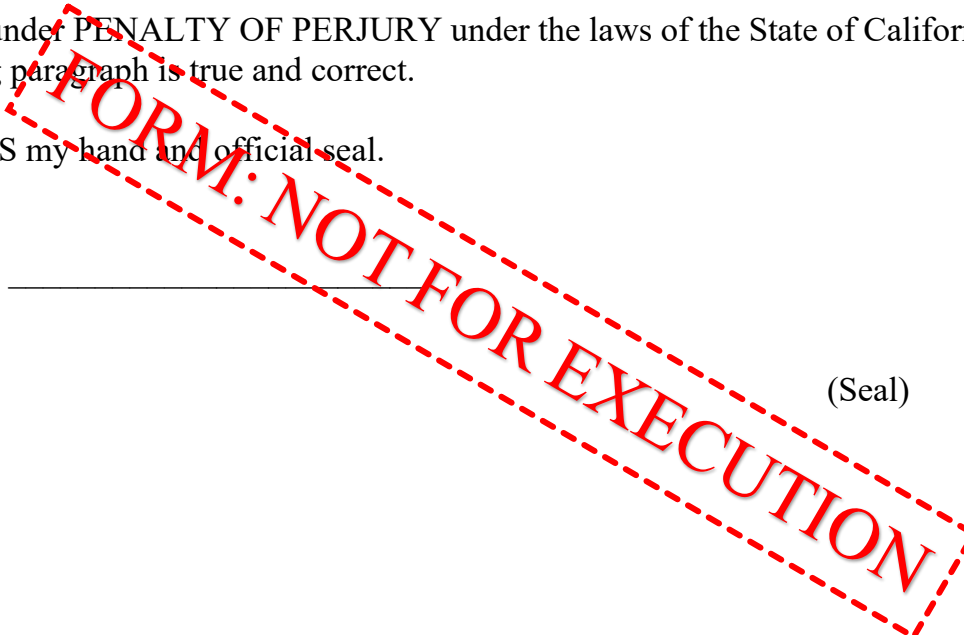


EXHIBIT "C" TO PURCHASE AND SALE AGREEMENT

**FORM OF
GRANT DEED**

The Grant Deed shall be substantially similar to the attached form.

**RECORDING REQUESTED BY AND,
WHEN RECORDED, MAIL TO:**

County of Kings
1400 W. Lacey Blvd.
Hanford, CA 93230
Attention: County Administrative Officer

OFFICIAL STATE BUSINESS – EXEMPT FROM RECORDING FEES PURSUANT TO GOVERNMENT CODE SECTION 27383 AND DOCUMENTARY TRANSFER TAX PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.	SPACE ABOVE THIS LINE FOR RECORDER’S USE ONLY
GRANT DEED	Agency: Judicial Council of California Property: Avenal Courthouse, No. 16-C1
APN: 040-165-007, 040-165-011 & 040-165-012; County of Kings	
<p>For valuable consideration, receipt of which is hereby acknowledged, the STATE OF CALIFORNIA (“Grantor”) does hereby grant to the County of Kings, all of Grantor’s right, title, and interest in and to the real property in the City of Avenal, County of Kings, State of California, described in Exhibit “A” attached hereto, consisting of one (1) page, and by this reference made a part hereof.</p> <p>Subject to all covenants, restrictions, reservations, easements, rights, and rights-of-way of record, if any.</p>	
<p>APPROVED AS TO FORM: Judicial Council of California, Legal Services</p> <p>By: _____ Name: Kristin Kerr Title: Supervising Attorney Date: _____</p>	<p>GRANTOR:</p> <p>STATE OF CALIFORNIA JUDICIAL COUNCIL OF CALIFORNIA</p> <p>By: _____ Name: _____ Title: _____ Date: _____</p>

FORM NOT FOR EXECUTION

EXHIBIT "A"
TO GRANT DEED

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF KINGS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

Lots 8 and 9 in Block 41 of Avenal, in the County of Kings, State of California, according to the map thereof recorded in Book 3 Page 35 of Licensed Surveyor Plats, together with those portions of Fifth Street and Kings Street (abandoned) which would pass by a conveyance of said land under Section 1112 and 831 of the Civil Code.

EXCEPTING THEREFROM all oil, gas, asphaltum, and other minerals within or underlying said land.

APN: 040-165-007

PARCEL 2:

Parcel 1 and 2 as recorded in Volume 1 at Page 19 of Parcel Maps, Kings County Records. Also being Lots 10, 11 and 12 of Block 41 of Avenal, according to the map thereof recorded in Book 3 at Page 35 of Licensed Surveyor Plats, Kings County Records, together with those portions of Kings Street (abandoned) which would pass by a conveyance of said land under Section 1112 and 831 of the Civil Code.

EXCEPTING THEREFROM all oil, gas, asphaltum, and other minerals within or underlying said land.

APN: 040-165-011 AND 012

JUDICIAL COUNCIL NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

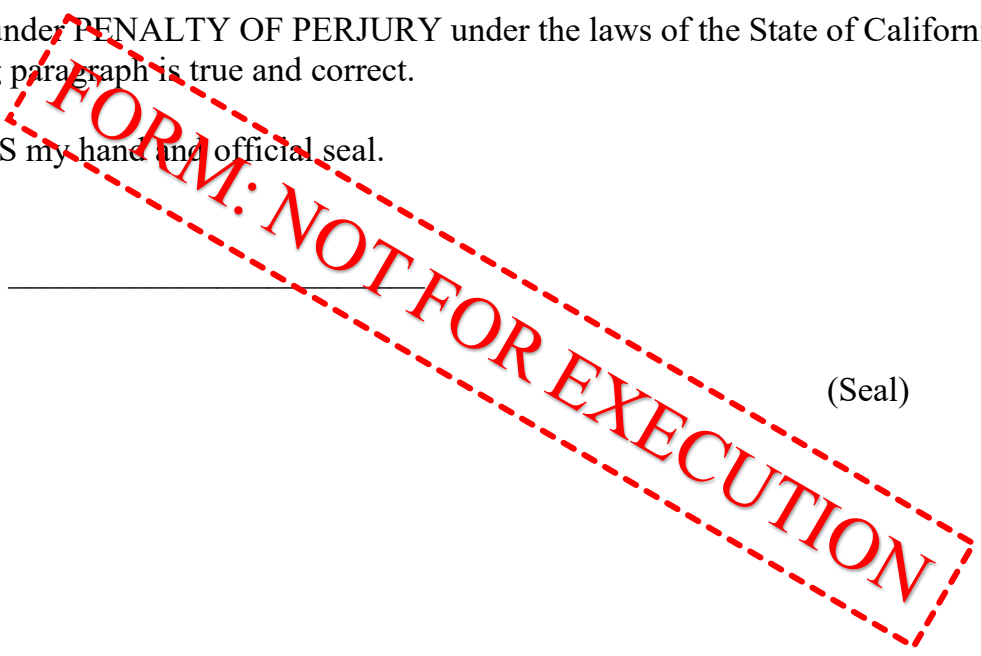
On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)



CERTIFICATE OF ACCEPTANCE

California Government Code Section 27281

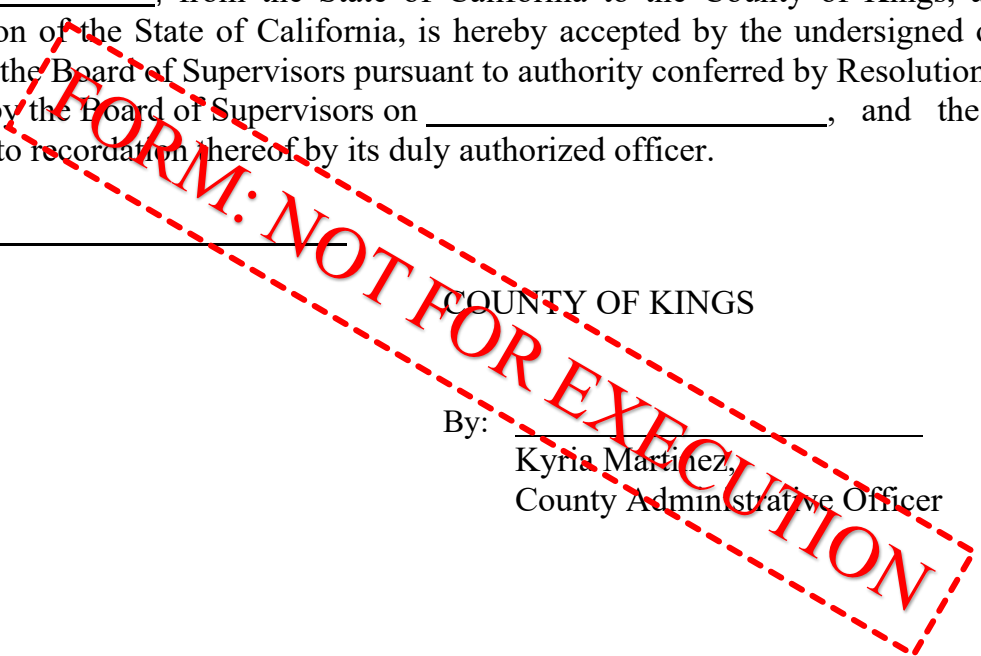
This is to certify that the interest in real property conveyed by the Grant Deed dated _____, from the State of California to the County of Kings, a political subdivision of the State of California, is hereby accepted by the undersigned officer on behalf of the Board of Supervisors pursuant to authority conferred by Resolution No. _____ adopted by the Board of Supervisors on _____, and the Grantee consents to recordation hereof by its duly authorized officer.

Dated: _____

COUNTY OF KINGS

By: _____

Kyria Martinez,
County Administrative Officer



**RECORDING REQUESTED BY AND,
WHEN RECORDED, MAIL TO:**

County of Kings
1400 W. Lacey Blvd.
Hanford, CA 93230
Attention: County Administrative Officer

<p>OFFICIAL STATE BUSINESS – EXEMPT FROM RECORDING FEES PURSUANT TO GOVERNMENT CODE SECTION 27383 AND DOCUMENTARY TRANSFER TAX PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.</p>	<p>SPACE ABOVE THIS LINE FOR RECORDER’S USE ONLY</p>
<p>GRANT DEED</p>	<p>Agency: Judicial Council of California Property: Avenal Courthouse, No. 16-C1</p>
<p>APN: 040-165-007, 040-165-011 & 040-165-012; County of Kings</p>	
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<p>APPROVED AS TO FORM: Judicial Council of California, Legal Services</p> <p>By: _____ Name: Kristin Kerr Title: Supervising Attorney Date: _____</p>	<p>GRANTOR:</p> <p>STATE OF CALIFORNIA JUDICIAL COUNCIL OF CALIFORNIA</p> <p>By: _____ Name: _____ Title: _____ Date: _____</p>

EXHIBIT "A"
TO GRANT DEED

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EXCEPTING THEREFROM all oil, gas, asphaltum, and other minerals within or underlying said land.

APN: 040-165-007

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APN: 040-165-011 AND 012

JUDICIAL COUNCIL NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

CERTIFICATE OF ACCEPTANCE

California Government Code Section 27281

This is to certify that the interest in real property conveyed by the Grant Deed dated _____, from the State of California to the County of Kings, a political subdivision of the State of California, is hereby accepted by the undersigned officer on behalf of the Board of Supervisors pursuant to authority conferred by Resolution No. ____ adopted by the Board of Supervisors on _____, and the Grantee consents to recordation thereof by its duly authorized officer.

Dated: _____

COUNTY OF KINGS

By: _____
Kyria Martinez,
County Administrative Officer

**RECORDING REQUESTED BY AND,
WHEN RECORDED, MAIL TO:**

County of Kings
1400 W. Lacey Blvd.
Hanford, CA 93230
Attention: County Administrative Officer

OFFICIAL STATE BUSINESS – EXEMPT FROM RECORDING FEES PURSUANT TO GOVERNMENT CODE SECTION 27383 AND DOCUMENTARY TRANSFER TAX PURSUANT TO REVENUE AND TAXATION CODE SECTION 11922.	SPACE ABOVE THIS LINE FOR RECORDER’S USE ONLY
APN: 040-165-007, 040-165-011 & 040-165-012; County of Kings	

TERMINATION OF JOINT OCCUPANCY AGREEMENT

This Termination of Joint Occupancy Agreement (“**Termination**”) is made and entered into as of _____, 20____, by and between the Judicial Council of California (“**Judicial Council**”) and the County of Kings (“**County**”). Judicial Council and County may hereafter be individually referred to as a “**Party**” and collectively referred to as the “**Parties.**”

RECITALS

A. The Judicial Council and County entered into that certain Transfer Agreement for the Transfer of Responsibility for and Title to Court Facility, dated December 31, 2008 (“**Transfer Agreement**”), setting forth the terms and conditions of the County’s transfer to the Judicial Council of responsibility for the funding and operation of, and the County’s conveyance to the State of California on behalf of the Judicial Council of title to, the court facility located at 501 East Kings Street, in the City of Avenal, County of Kings, State of California (“**Real Property**”), as more fully described in **Attachment “1”** to this Termination.

B. Concurrently with and pursuant to the Transfer Agreement, the Judicial Council and County also entered into that certain Joint Occupancy Agreement, dated December 31, 2008 (“**JOA**”), setting forth the Parties’ respective rights and obligations with respect to the shared occupancy and use of the Real Property.

C. To memorialize the Parties’ respective rights and duties under the JOA, the Judicial Council and County executed a Memorandum of Joint Occupancy Agreement (“**Memorandum**”), which was recorded in the Official Records of the County of Kings on January 8, 2009, as Document No. 0900297.

D. On July 29, 2014, the Judicial Council of California amended rule 10.81 of the California Rules of Court to substitute the “Judicial Council” for the “Administrative Office of the Courts” or the “AOC” in all contracts, memoranda of understanding, and other legal agreements, documents, proceedings, and transactions, with no prejudice to the substantive rights of any party.

E. The Judicial Council and County subsequently entered into that certain Purchase and Sale Agreement, dated _____, 20___, pursuant to which the County purchased from the Judicial Council, and the Judicial Council sold to the County, title to the Real Property (“**Purchase Agreement**”) as more fully set forth therein.

F. As a result of the Purchase Agreement, the JOA has terminated and is no longer of any force or effect, except for those terms of the JOA that expressly survive the termination thereof.

G. The Parties now desire to record this Termination to memorialize the termination of the JOA and Memorandum, as set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. The Parties acknowledge that the above Recitals are true and correct and are incorporated into this Termination by this reference.

2. The JOA and Memorandum are terminated, and are no longer of any force or effect, except for those terms of the JOA that expressly survive the termination thereof.

3. This Termination is to be recorded in the Official Records of the County of Kings with respect to the Real Property, whereupon the Memorandum will automatically be removed as an encumbrance on the title to the Real Property.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Termination of Joint Occupancy Agreement on the dates indicated below.

APPROVED AS TO FORM:
Judicial Council of California,
Legal Services


JUDICIAL COUNCIL OF CALIFORNIA

By: _____
Name: Kristin Kerr
Title: Supervising Attorney
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM:
County Counsel

COUNTY OF KINGS

By: 
Name: Cindy Crose Kliever
Title: Deputy County Counsel
Date: 11/27/2023

By: _____
Name: Kyria Martinez
Title: County Administrative Officer
Date: _____

**ATTACHMENT "1" TO
TERMINATION OF JOINT OCCUPANCY AGREEMENT**

LEGAL DESCRIPTION OF THE REAL PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF KINGS, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

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APN: 040-165-007

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STATE OF CALIFORNIA

COUNTY OF _____

On _____ before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

COUNTY NOTARY ACKNOWLEDGMENT

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STATE OF CALIFORNIA

COUNTY OF _____

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I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)



COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 582-3211 EXT 2362
Catherine Venturella, Clerk of the Board of Supervisors

AGENDA ITEM

December 5, 2023

SUBMITTED BY: Administration – Kyria Martinez/Matthew Boyett

SUBJECT: RESOLUTION ESTABLISHING A CHANGE IN HOURS TO THE
PUBLIC FOR MOST COUNTY DEPARTMENTS

SUMMARY:

Overview:

The County would like to permanently establish the voluntary 9/80 work schedule that was piloted this summer where employees work nine hours Monday through Thursday and four hours on Friday, which provides a benefit and convenience to employees who are able to participate. Participation in the alternative work schedule is voluntary and at the discretion of the department head. The current pilot 9/80 schedule is set to expire on December 24, 2023.

Recommendation:

Adopt a resolution permanently establishing a change in hours to the public for departments to allow public contact/appointment times between 8:00 a.m. and 5:00 p.m. Mondays through Thursdays and 8:00 a.m. to noon on Fridays effective December 25, 2023.

Fiscal Impact:

There are no perceived fiscal impacts. Per the Fair Labor Standards Act (FLSA) any non-exempt employee on a 9/80 work schedule must have a specifically defined 7-day work week that precludes the employee from working more than 40 hours in a week on a regular basis.

BACKGROUND:

Hiring and retention continues to be a critical issue and focus for the County. Several neighboring counties have instituted alternate schedules to provide flexibility to employees and provide for increased work/life balance. While making a small change to the public on Friday by being closed at 12:00 noon, the County can create a benefit to employees. Most departments have found that Friday afternoons are when they see the least number of clients. Hours of operation for departments opting into the 9/80 schedule will be Monday through Thursday 8:00 a.m. to 5:00 p.m. and on Fridays 8:00 a.m. to 12:00 noon. The initial pilot program ran from June 26, 2023 through September 3, 2023. However, this initial pilot was extended through December 24, 2023 due to overwhelmingly positive feedback received from employees and departments. Recent surveys have once again illustrated strong support for the permanency of this alternative work schedule option. The resolution has been reviewed and approved by County Counsel as to form.

BOARD ACTION:

APPROVED AS RECOMMENDED: _____ OTHER: _____

I hereby certify that the above order was passed and adopted
on _____, 2023.

CATHERINE VENTURELLA, Clerk of the Board

By _____, Deputy.

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF KINGS, STATE OF CALIFORNIA

IN THE MATTER OF APPROVING NEW RESOLUTION NO. _____
ALTERNATE HOURS THE COUNTY
WILL BE OPEN TO THE PUBLIC _____/

WHEREAS, the County of Kings is committed to be an employer of choice by continuing to explore opportunities for enhancing recruitment and retention;

WHEREAS, the County of Kings desires to stay competitive with other surrounding agencies in the marketplace;

WHEREAS, the County of Kings implemented temporary alternative schedules and operating hours, which proved to be beneficial to County employees, without impacting public services; and

WHEREAS, the County of Kings will permanently provide a flexible alternate schedule in hopes to offer work-life balance and convenience to employees by helping them reduce personal leave time.

NOW THEREFORE, IT IS HEREBY RESOLVED as follows:

1. The County of Kings will maintain the following alternative hours open to the public for departments who are participating in the 9/80 alternate schedule:

Monday	8 a.m. to 5 p.m.
Tuesday	8 a.m. to 5 p.m.
Wednesday	8 a.m. to 5 p.m.
Thursday	8 a.m. to 5 p.m.
Friday	8 a.m. to noon

2. The permanent alternative office hours prescribed herein shall not apply to any department or office that by law must be kept open to the public for the transaction of business.

3. The County Administrative Officer is authorized and directed to take all necessary actions consistent with the terms set forth herein to implement this Resolution.

The foregoing resolution was adopted upon motion by Supervisor _____, seconded by Supervisor _____ at a regular meeting held on the ____ day of _____, 2023, by the following vote:

AYES: Supervisors
NOES: Supervisors
ABSENT: Supervisors
ABSTAIN: Supervisors

Richard Valle, Chairperson of the Board of
Supervisors County of Kings, State of
California

IN WITNESS WHEREOF, I have set my hand this ___ day of _____, 2023.

Clerk of said Board of Supervisors



COUNTY OF KINGS BOARD OF SUPERVISORS

GOVERNMENT CENTER HANFORD, CALIFORNIA 93230 (559) 852-2362
Catherine Venturella, Clerk of the Board of Supervisors

AGENDA ITEM December 5, 2023

SUBMITTED BY: Human Resources – Carolyn Leist

SUBJECT: STUDY SESSION REGARDING THE VANTAGECARE RETIREMENT HEALTH SAVINGS PROGRAM

SUMMARY:

Overview:

This study session is to provide the Board information regarding the VantageCare Retirement Health Savings (RHS) Program and provide the Board information on how it would benefit County employees.

Recommendation:

- a. Overview of the VantageCare Retirement Health Savings Program;
- b. Direct staff as necessary to negotiate with bargaining groups interested in the Program.

Fiscal Impact:

There is no direct fiscal impact associated with receipt of the study session. However, the Board could determine whether the program be funded by the County either fully or partially.

BACKGROUND:

Healthcare costs are on the rise and are likely to be a big, ongoing expense in retirement. Medicare only pays for part of the total costs, and Medicare does not cover most dental, hearing, vision, and long-term care expenses. The VantageCare RHS program, if offered to County employees, would be sponsored by the County, and administered by MissionSquare Retirement. This program has tax advantages, and helps employees pay for future health care costs for the employee, their spouse, and eligible dependents.

Contributions can either be set for all employees, or by individual bargaining units. The contribution amounts are subject to negotiations through the meet and confer process and are determined for all individuals within a covered group; individuals cannot make deferral amount selections. Contributions are pre-tax, and earnings

(Cont'd)

BOARD ACTION:

APPROVED AS RECOMMENDED: _____ OTHER: _____

I hereby certify that the above order was passed and adopted
on _____, 2023.

CATHERINE VENTURELLA, Clerk to the Board

By _____, Deputy.

Agenda Item

STUDY SESSION REGARDING THE VANTAGECARE RETIREMENT HEALTH SAVINGS PROGRAM

December 5, 2023

Page 2 of 2

build up as tax-deferred, which means that withdrawals for qualifying expenses are tax-free. Contributions can include one or all of the following: direct employer contributions, mandatory employee compensation contributions, and mandatory employee leave contributions. Any employee contributions must be mandatory because RHS is not permitted to receive voluntary employee contributions.

Contributions are not eligible for withdrawal until the employee has separated from service, reached retirement age, or is disabled. The contributions can only be used for medical, dental, vision, insurance premiums, medical out-of-pocket expenses, and Medicare Part B/D premiums.

Human Resources is seeking guidance from the Board on whether they are interested in offering an RHS program for Kings County employees. The program would be subject to meet and confer obligations.

Pay for future health care

VantageCare
RHS program

52474-0721-8498-W1175/W1176

This presentation is the property of MissionSquare Retirement and may not be reproduced or redistributed in any manner.

MissionSquare
RETIREMENT



Health care costs

Keep rising –
more than worker wages and inflation¹



Likely to be a big, ongoing
expense in retirement

How will you pay for it?



¹ Source: Peterson-KFF. "How has U.S. spending on healthcare changed over time?" Accessed March 9, 2021.

What about Medicare?



Out-of-pocket costs

1. Premiums
2. Copayments & coinsurance
3. Deductibles

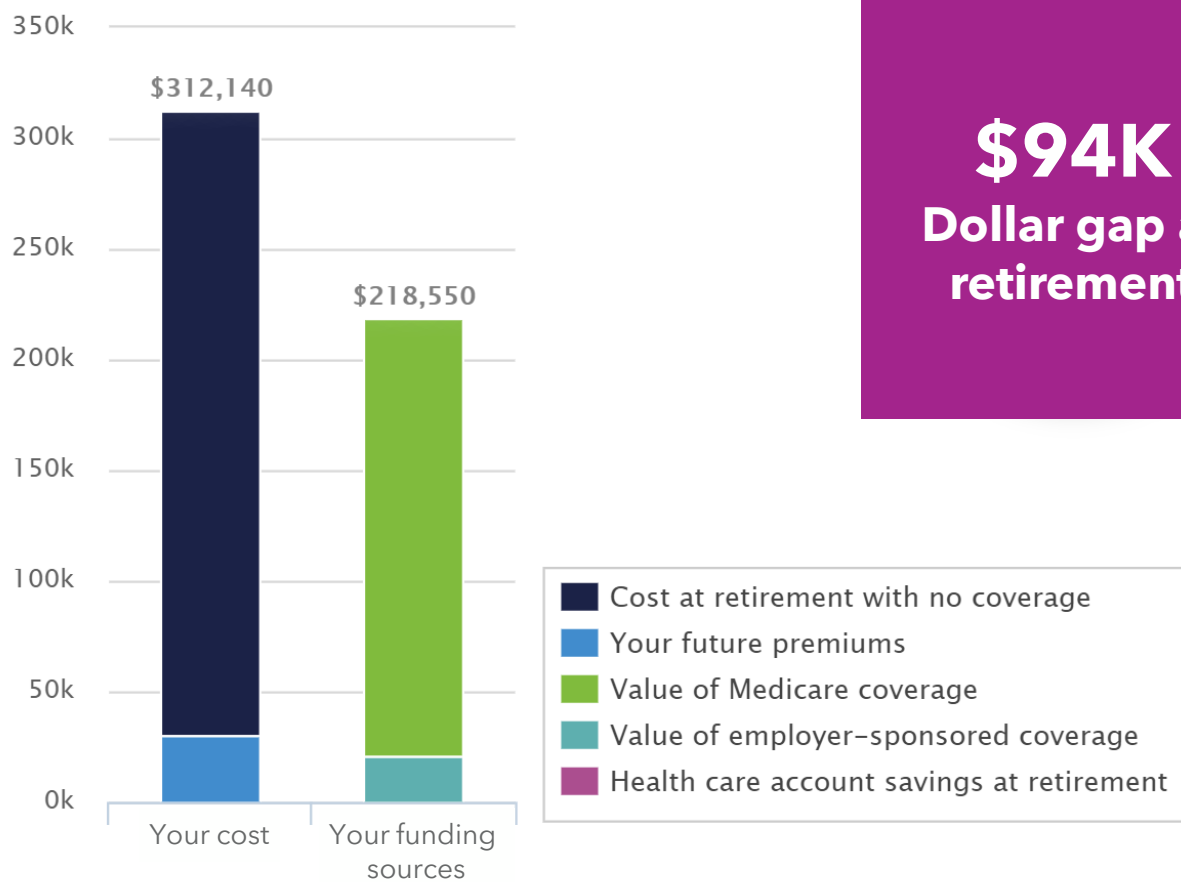
Medicare only pays for part of your total costs.



Medicare doesn't cover most dental, hearing, vision, and long-term care expenses.

How much **might** you need?

Get an estimate: www.icmarc.org/health



\$94K
Dollar gap at
retirement

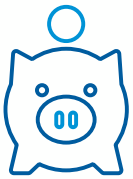


Retirement Health Savings (RHS) program

- Helps you pay for future health care costs
- Covers you, your spouse, and dependents
- Has tax advantages
- Sponsored by your employer, administered by MissionSquare Retirement



How it works



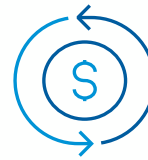
Contributions

Your employer determines who contributes



Investments

You control, choosing from available funds



Reimbursements

You request, for qualifying health expenses



After your death

Assets may transfer to eligible survivors



Contributions

- Can be set for all employees or by individual bargaining units (covered group)
- Contribution amounts are determined for all individuals within a covered group
 - Individuals cannot make deferral amount selections
- County requires contribution matrix for a covered group be determined through the meet and confer process.

Tax benefits



Pre-tax
contributions



Earnings build up
tax-deferred



Withdrawals for
qualifying expenses
are **tax-free**



Investments – choose your approach



I want to build my own portfolio –
choose individual stock and bond funds



I want a simple yet diversified portfolio –
choose a target-date or target-risk fund



Withdrawals

Request reimbursements – you, or eligible survivors, must:

1



Be eligible for benefits*

- Separated from service
- Reached retirement age
- Disabled

2



Have qualifying benefits*

- Medical, dental, vision
- Insurance premiums
- Medical out-of-pocket expenses
- Medicare Part B/D premiums

3



Submit necessary forms, supporting documents

Most claims – 10-day turnaround time



Resources



- Learn more about RHS – www.icmarc.org/rhs
- Your MissionSquare Retirement **representative**
- Claims questions – **Meritain Health**
- Manage your RHS account online – www.icmarc.org



Questions?



MissionSquare Retirement Health Savings Program

Participation and Contribution Examples

Examples of Eligible Groups

The employer decides which employee group or groups are required to participate in the Retirement Health Savings (RHS) Program. The employee group(s) specified must correspond to a group that is defined in the statutes, ordinances, rules, regulations, personnel manuals, or other documents, or provisions in effect in the state or locality of the Employer.

Specific Job

(e.g., town or city manager, department heads, supervisors)

Holding a Specific Career

(e.g., police, fire)

Hired Before, On, Or After a Specific Date

(e.g., all employees hired after January 1, 20__)

Continuous Years of Service

(e.g., all employees with 10 years of service)

Specific Affiliation

(e.g., IAFF, FOP, Teamsters, AFL-CIO, or other collectively bargained employees)

Examples of Plan Funding Alternatives

The employer decides on the suitable contribution types available in the plan. Contributions can include one or all of the following: direct employer contributions, mandatory employee compensation contributions, and mandatory employee leave contributions. Any employee contributions must be mandatory because RHS is not permitted to receive voluntary employee contributions. Examples are shown in the table below.

Direct Employer Contribution	Mandatory Employee Leave Contribution
<p>As a % of Earnings</p> <ul style="list-style-type: none"> 1% of gross salary or base salary 1% of salary excluding overtime 3% for all full-time employees Graduated percentage <ul style="list-style-type: none"> 2% in year 1 3% in year 2 and future 	<ul style="list-style-type: none"> 75% of excess accrued sick leave over 90 days Eight days of sick, vacation and holiday time per year Any vacation that would be lost over allowed limit each year 100% of sick leave balance upon retirement Payment of accrued sick leave over 1000 hours at retirement At retirement and 20 years of service <ul style="list-style-type: none"> 25% of leave up to 45 days 75% of leave over 45 days Up to 720 hours converted at 100% In excess of 720 hours converted at 50% Dollar equivalent of unused sick and vacation leave up to \$40,000 at retirement After 10 years of service, any excess of 160 hours of sick leave will be contributed annually
<p>Dollar Amount Annually</p> <ul style="list-style-type: none"> Graduated for years of service <ul style="list-style-type: none"> 1-9 years \$500 10-19 years \$1000 Graduated for employment status <ul style="list-style-type: none"> Full-time \$400 Part-time \$200 Officers hired after 7/31/20__ – \$500/yr. Completion of 10 years of service – \$5,000/yr. and \$5,000 every year after 	
<p>Discretionary Amount Determined Annually</p> <ul style="list-style-type: none"> Fixed dollar amount pursuant to annual budget 1% or \$300, whichever is greater 	
	Mandatory Employee Compensation Contribution
	<ul style="list-style-type: none"> 25% of all salary increases from compensation going forward 3% of salary once employee reaches age 40 3% of salary for employees with 10 or more years of service 2% of salary for all employees hired before 20__

Your RHS Program is subject to nondiscrimination rules, unless the program limits reimbursements to health insurance premiums only. Further, certain collectively bargained plans may also be exempt from the nondiscrimination testing rules.

If applicable, these nondiscrimination rules prohibit your RHS Program from discriminating in favor of highly compensated individuals (HCIs) with respect to eligibility and benefits. Although there is limited guidance from the IRS on the application of the nondiscrimination rules to a program like RHS, it is generally thought a RHS Program providing fixed contributions to all employees of an employer presents a low risk from a nondiscrimination perspective. Similarly, plans that exclude HCIs present a low risk from a nondiscrimination perspective. Plans that vary benefits based on age, years of service, or compensation are generally thought to present a higher risk from a nondiscrimination perspective. Employers should consult counsel if they are uncertain about whether an eligibility group and/or funding formula satisfies the nondiscrimination rules.