

**Board Members**

Joe Neves, District 1  
Richard Valle, District 2  
Doug Verboon, District 3 - Chairman  
Rusty Robinson, District 4 – Vice-Chairman  
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, August 20, 2024  
**Time:** 9:00 a.m.  
**Place:** BOARD of SUPERVISORS CHAMBERS, Kings County Government Center  
1400 W. Lacey Boulevard, Hanford, California 93230

☎ (559) 852-2362 ❖ [bosquestions@co.kings.ca.us](mailto:bosquestions@co.kings.ca.us) ❖ [website: https://www.countyofkingsca.gov](https://www.countyofkingsca.gov)

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- I. 9:00 AM **CALL TO ORDER**  
ROLL CALL – Clerk of the Board  
INVOCATION – TBD  
PLEDGE OF ALLEGIANCE



**II. UNSCHEDULED APPEARANCES**

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

**III. APPROVAL OF MINUTES**

- A. Report out of Closed Session from the regular meeting for August 13, 2024.
- B. Approval of the minutes from the regular meeting for August 13, 2024.

**IV. CONSENT CALENDAR**

**A. Human Services Agency:**

- 1. Consider recertifying the fact that Kings Community Action Organization continues to be the only agency providing compliant services eligible for the disbursement of funding from the County Domestic Violence Shelter Based Program Special Fund Trust.

**B. Public Works Department:**

- 1. a. Consider approving the special use Agreement with the Kings County Sheriff's Posse for the complete closure of Burris Park on September 7, 2024;
- b. Authorize the Public Works Director to sign the special use Agreement.

**V. REGULAR CALENDAR**

**A. Public Health Department – Rose Mary Rahn/Everardo Legaspi**

- 1. Consider adopting a Resolution proclaiming the month of August 2024 as National Breastfeeding Month in Kings County.

**B. Public Works Department – Dominic Tyburski/Mitchel Cabrera**

- 1. Consider approving the Agreement with the ENGIE Services U.S. for operations and maintenance of solar and electrical facilities retroactively effective from September 1, 2023 through August 31, 2028.

**B. Administration – Kyria Martinez/Tomas Barajas**

- 1. Consider approving the recission Agreement with Kings Community Action Organization regarding pass-through funding for the food bank and housing project.

**VI. 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 (Govt. Code Section 54954.2a).*

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



- VII. 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

**VIII. ADJOURNMENT**  
The next regularly scheduled meeting will be held on August 27, 2024 at 9:00 a.m.

<b><i>FUTURE MEETINGS AND EVENTS</i></b>		
August 26	9:00 AM	FY 2024-2025 Final Budget Hearings
August 27	9:00 AM	Regular Meeting
September 3	---	Regular Meeting Canceled due to Labor Day Holiday on September 2, 2024
September 10	9:00 AM	Regular Meeting
September 10	2:00 PM	Board of Equalization Regular Meeting
September 17	9:00 AM	Regular Meeting
September 24	9:00 AM	Regular Meeting

***In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Board of Supervisors office at (559) 852-2362 by 9:00 a.m. on the Monday prior to this meeting.***

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<https://www.countyofkingsca.gov/departments/board-of-supervisors/calendar-agenda-and-action-summary>



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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, August 13, 2024  
**Time:** 9:00 a.m.  
**Place:** BOARD of SUPERVISORS CHAMBERS, Kings County Government Center  
1400 W. Lacey Boulevard, Hanford, California 93230

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- I. 9:00 AM **CALL TO ORDER**  
ROLL CALL – Clerk of the Board  
INVOCATION – Pastor Sylvia Gaston – Koinonia 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 item of interest to the public, that is within the subject matter jurisdiction of the Board. Two (2) minutes are allowed for each item.*

**Robert Angel, Public Works Department/Road Maintenance Worker** stated that he has worked for the County for ten years and expressed his opposition to the reclassification and title change of his current position as part of the Koff & Associates salary survey and the impacts the proposed changes will have for the 18 employees in the division. He requested the Board to please consider all the facts before implementing the proposed changes and the impacts on the employees who are working for the County.

Supervisor Valle asked staff if the classification changes on the agenda today includes any of the positions the employees are speaking on today and if not, when would they be placed on the agenda. He stated that Board has worked to help with retention and longevity and has concerns that employees don't feel supported and may not know that they can discuss their issues with their Union representatives and Department Head.

**Kyria Martinez, County Administrative Officer** stated that the positions on the agenda today are for Sheriff's Office and Fire Department Unrepresented Management as those Unions have completed their negotiations and have signed Memorandum of Understandings. She stated that the other Unions are in active negotiations and there is no specific date for them coming to the Board.

**Eduardo Bautista Oquita, Public Works Department/Road Maintenance Worker** stated that he has worked for the County for three years and has seen eight co-workers leave for better pay, he stated that when he was hired he was paid \$15 per hour and is thankful for what he has learned and the staff who has trained him and feels that the proposed title changes and ½ percent pay increase won't help those that are struggling in his division.

**Ricardo Angel, Public Works Department/Road Maintenance Worker** stated that he has worked for the County for six years and the employees in this division have to work in conditions with distracted drivers, through the floods, during the heat waves and give up time with their families to make the County roads safe and the current positions in the division work and the proposed changes to the titles wouldn't benefit the department and employees. He stated that he has been told that the Human Resources Director is firm on the decision and is supported by the Public Works Director and the staff feels that their loyalty and hard work isn't deemed as valuable and asked for fair wages.

**Jason Kemp Van Ee, Human Services Agency/Program Manager** stated that the Koff & Associates salary survey is recommending his position title change and stated that he has worked hard to get to the position he is in and the proposed changes will be a slap in the face to the employees who have worked here and asked the Board to look at the comparable counties that were used and how they are larger or smaller than Kings County.

**Lupe Villa, Registrar of Voters** gave the Board an update on the upcoming election and stated that 94 candidates qualified and pulled papers to run for various positions and there will be nine measures on the ballot. He stated that the ballot will be between 3-4 pages and his prediction is 85% voter turnout so he will have a second vote center here on the County Government Center grounds to accommodate the crowds of voters.



**Dominic Tyburski, Public Works Director stated that he is requesting to pull item IV.B.1 and bring it back on next weeks agenda due to a Board member asking for clarification on the item and his need to get information gathered. The Board discussed the request to pull the item and called for a vote. ACTION: REJECT THE REQUEST TO PULL ITEM IV.B.1 FROM THE AGENDA (JN, RR, RV, RF, DV-Aye)**

**Dominic Tyburski, Public Works Director stated that he is here to support all staff in his department and feels that they do deserve better wages but stays on the sidelines of negotiations.**

**Supervisor Verboon stated that the Board approved the Koff & Associates salary survey at the request of the previous Administration and have been working with staff to make this survey work and find the best options for our employees. He stated that with a 13% inflation rate it makes it difficult to help everyone and be mindful of the budget for the future.**

**Supervisor Valle asked Dominic Tyburski whether the decision for title changes part of the department heads authority should be and not under the union or the Human Resources Directors authority.**

**Supervisor Robinson asked if staff that is coming to the Board meetings are having conversations with their direct division Supervisor.**

**Dominic Tyburski, Public Works Director stated that staff has been meeting with the division Supervisor and voicing their concerns but due to the recommendations of Human Resources they are coming to the Board to speak on the topic.**

**III.**

**APPROVAL OF MINUTES**

**A. Report out of Closed Session from the regular meeting for August 6, 2024.**

**REPORT OUT: Diane Freeman, County Counsel stated the Board took no reportable action in closed session at their August 6, 2024, meeting.**

**B. Approval of the minutes from the regular meeting for August 6, 2024.**

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

**C. Approval of the minutes from the special meeting for July 29, 2024.**

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

**IV.**

**CONSENT CALENDAR**

**A. Public Health Department:**

1. Consider appointing thirteen members to the Kings County Ambulance Commission.

**B. Public Works Department:**

1. Consider reclassifying the Non-Routine/Undesirable Encroachment requested by Walker Farms, Inc. to a Routine Irrigation Pipe Encroachment per Kings County Resolution 77-144.

**ITEM WAS PULLED FOR DISCUSSION. ACTION: APPROVED AS PRESENTED (RR, JN, RV, RF, DV-Aye)**

**C. Sheriff's Office:**

1. Consider approving the first amendment to the Agreement with Trinity Services Group, Inc. to include a non-disclosure clause to the terms of the food services agreement effective August 13, 2024 through March 17, 2026. **[AGMT 24-033.1]**

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



**V.**

**REGULAR CALENDAR**

**A. Human Resources – Carolyn Leist/Melissa Avalos**

1. a. Consider approving the salary increases for the Unrepresented Management employees who oversee the Deputy Sheriff Association and Fire Association employees effective August 5, 2024;
- b. Approve the Peace Officer Standards and Training Education Incentive for applicable Unrepresented Management employees effective August 5, 2024;
- c. Approve the Fire Certification pays for applicable Unrepresented Management employees effective August 5, 2024;
- d. Approve the Salary Resolution updates effective August 5, 2024.

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

**VI.**

**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 (Govt. Code Section 54954.2a).*

**Supervisor Robinson stated that last week he spoke with County staff to hear their concerns about the Koff & Associates survey and yesterday he spoke with farmers about the current water situation.**

**Supervisor Fagundes stated he went to Northern California to visit a relative who has not been feeling well.**

**Supervisor Neves stated he attended the First Five Commission meeting and gave updates as to what was discussed.**

**Supervisor Verboon stated he was interviewed for an online magazine article and attended the San Joaquin Valley Water Infrastructure Authority meeting.**

- ◆ **Board Correspondence: Kyria Martinez stated the Board received the July 2024 Monthly Kings County Investment Pool Transaction Activity Report from the Director of Finance dated August 1, 2024, received a notice dated August 7, 2024 from the State Center Community College District regarding the November 5, 2024 Bond Measure Election together with a Tax Rate Statement and Resolution No. 2024.37, and on August 9, 2024 the Board received the Operational Area Report for the Week for August 5, 2024 from Kings County Fire and Office of Emergency Services.**
- ◆ **Upcoming Events: Kyria Martinez stated that Behavioral Health will host its Veteran's Support Group, tonight Tuesday, August 13, 2024 from 5:30 p.m. – 7:30 p.m. at the Veterans Memorial Hall in Hanford, Behavioral Health will also host its Family Member Support Group next Tuesday, August 20, 2024, from 5:30 p.m. – 7:30 p.m. at the Kings Building located on our campus, Kings County Health Department together with the Central California Blood Center will be hosting the next Employee Blood Drive on September 5, 2024, from 9:00 a.m. – 1:00 p.m., at 1420 Mather Drive in Hanford (in the parking lot closest to the old Sheriff's Office). You can register online to save your spot and walk-ins are welcome. The Kings County Commission on Aging will host its Senior Day in the Park event on Friday, September 20, 2024, at Burris Park. There will be breakfast burritos and box lunches from KFC.**





- ◆ Information on Future Agenda Items: **Kyria Martinez stated the following items would be on a future agenda: Administration – Rescinding of the Kings Community Action Organization Pass Through Agreement; Public Health Department – Proclamation for National Breastfeeding Month; Human Services Agency – Annual Certification for Domestic Violence Shelter-Based Programs Special Fund to Kings Community Action Organization; Public Works Department – Operation and Maintenance Agreement with Engie Services, and a Special event request by the Kings County Sheriff’s Posse for Use of Burris Park.**

**VII. CLOSED SESSION**

- ◆ **Threat to Public Services or Facilities: [Govt. Code Section 54957(a)]**  
**Consultation with:**
  - David Robinson, Sheriff
  - Dominic Tyburski, Public Works
- ◆ **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
- ◆ **Litigation initiated formally. Title:**  
*Southern California Edison Company v. State Board of Equalization, et al., Orange County Superior Court Cast No.: 30-2024-01403215-CU-MC-CXC.*  
**[Govt. Code Section 54956.9(d)(1)]**

**VIII. ADJOURNMENT**

The next regularly scheduled meeting will be held on August 20, 2024 at 9:00 a.m.

***FUTURE MEETINGS AND EVENTS***

August 20	9:00 AM	Regular Meeting
August 27	9:00 AM	Regular Meeting
September 3	---	Regular Meeting Canceled due to Labor Day Holiday on September 2, 2024
September 10	9:00 AM	Regular Meeting
September 10	2:00 PM	Board of Equalization Regular Meeting
September 17	9:00 AM	Regular Meeting
September 24	9:00 AM	Regular Meeting

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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 August 20, 2024

**SUBMITTED BY:** Human Services Agency – Wendy Osikafo/Atonya Moore

**SUBJECT:** ANNUAL RECERTIFICATION TO DISBURSE FUNDING FROM THE DOMESTIC VIOLENCE SHELTER-BASED PROGRAMS SPECIAL FUND TO KINGS COMMUNITY ACTION ORGANIZATION

**SUMMARY:**

**Overview:**

On August 30, 2022, the Board approved a five-year agreement (Agreement 22-146) with Kings Community Action Organization (KCAO) to administer the Domestic Violence Shelter-Based Program and receive funding. The Domestic Violence Shelter-Based Programs Act, Welfare and Institutions Code (WIC) section 18290-18309.8, outlines Domestic Violence Shelter-Based Program requirements, designates fees for county special funds to support these shelters, and outlines a provision for the county to designate a local agency to monitor the shelter-based programs receiving funding.

**Recommendation:**

**Recertify the fact that Kings Community Action Organization continues to be the only agency providing compliant services eligible for the disbursement of funding from the County Domestic Violence Shelter Based Program Special Fund Trust.**

**Fiscal Impact:**

There is no impact to the County General Fund. All funds recommended for disbursement are generated through the Domestic Violence Shelter-Based Programs Act of 2006 and the Domestic Violence Trust Account. In 2022, \$37,621 was distributed through July 2023, and \$35,476 was distributed through May 2024, for a total of \$73,097 distributed to KCAO from the trust account.

**BACKGROUND:**

On August 30, 2022, the Board approved a five-year agreement (Agreement 22-146) with Kings Community

(Cont'd)

**BOARD ACTION:**

APPROVED AS RECOMMENDED: \_\_\_\_\_ OTHER: \_\_\_\_\_

I hereby certify that the above order was passed and adopted  
on \_\_\_\_\_, 2024.

CATHERINE VENTURELLA, Clerk to the Board

By \_\_\_\_\_, Deputy.

## Agenda Item

### ANNUAL RECERTIFICATION TO DISBURSE FUNDING FROM THE DOMESTIC VIOLENCE SHELTER-BASED PROGRAMS SPECIAL FUND TO KINGS COMMUNITY ACTION ORGANIZATION

August 20, 2024

Page 2 of 3

Action Organization (KCAO) to administer the Domestic Violence Shelter-Based Program and receive funding. On August 22, 2023, the Board recertified the disbursement of funding to KCAO. As the sole provider of domestic violence shelter-based programs in Kings County, KCAO continues to be eligible by law to receive funds derived from these fees.

As intended by law, disbursement of the funds from the County Domestic Violence Shelter Based Program Special Trust Fund (Domestic Violence Trust) augment the local women's shelter's budget and provide additional funding for shelter-based emergency support services for victims of domestic violence and their children. KCAO began their Domestic Violence Prevention Program in October 1980. Although there is a five-year agreement in place, there is a requirement for annual recertification pursuant to WIC Section 18293.

The following basic services (bold) are to be provided to victims of domestic violence and their children according to WIC Section 18294 and are followed by KCAO's compliance with each requirement (non-bold):

- **Shelter on a 24-hour a day, seven days a week basis at a safe, secure, and confidential location** – KCAO's Barbara Saville Shelter operates 24-hours daily, seven days per week, including all holidays.
- **A 24-hour a day, seven days a week telephone hotline for crisis calls** – KCAO's crisis line number is 1-877-727-3255 and is operational 24-hours daily, seven days per week, including all holidays.
- **Temporary housing and food facility** – KCAO's Barbara Saville Shelter is temporary housing and provides all food, including snacks, to individuals and/or families that reside at the location. The shelter is equipped with a full kitchen and follows the Child and Adult Care Food Program (CACFP). A menu is created and followed each week that focuses on healthy eating habits.
- **Psychological support and peer counseling provided in accordance with Section 1037.1 of the Evidence Code** – KCAO offers therapy services through a contracted licensed therapist and trained staff to adults and children at the Barbara Saville Shelter, including both individual and group therapy. KCAO has provided a total of 390 sessions in the reporting year. On average, a total of 17 people participate each month in therapy services. KCAO staff are trained in the 40-hour Domestic Violence Certification and are able to provide peer counseling.
- **Referrals to existing services in the community** – KCAO continues to maintain strong working relationships with the community. KCAO often refers clients to community partners including Victim Witness, Central California Legal Services, Kings View, Kings County Behavioral Health (KCBH), the Kids In New Directions (KIND) Center, Champions, and other KCAO departments that can be beneficial to the client's success.
- **A drop-in center that operates during normal business hours** – KCAO's business office is located at 1716 N. 11th Ave, Suite B, Hanford, CA. and the contact number is 559-585-1018. Business hours are Monday – Friday, 8am – 5pm. The office does not close for lunch, ensuring that a staff member is always available to support interested individuals. The crisis line is available after business hours, weekends, and holidays.
- **Arrangements for school-age children to continue their education during their stay at the shelter** – KCAO's Barbara Saville Shelter works closely with the Kings County Office of Education and the school districts throughout the county to enroll children as soon as possible and works further to support children by completing the McKinney Vento Act referral form, Breaking Barriers. Case Managers and a

## Agenda Item

### ANNUAL RECERTIFICATION TO DISBURSE FUNDING FROM THE DOMESTIC VIOLENCE SHELTER-BASED PROGRAMS SPECIAL FUND TO KINGS COMMUNITY ACTION ORGANIZATION

August 20, 2024

Page 3 of 3

Shelter Coordinator provide families support with seeking Individualized Educational Plans (IEPs) and Section 504 (of the Rehabilitation act of 1973 as amended, 29 U.S.C. 794, which prohibits discrimination against otherwise qualified individuals on the basis of disability) accommodations as needed.

- **Emergency transportation as feasible** – KCAO provides transportation using agency vehicles, providing bus passes, bus tickets, and train tickets. KCAO has also assisted with airplane tickets when relocating clients.

WIC Section 18295 also requires the following services (bold) to be provided to the extent possible and are followed by KCAO's compliance with each requirement (non-bold):

- **Medical Care** – KCAO works closely with Kings County Human Services Agency (HSA) to assist clients in applying to Medi-Cal and other supports. KCAO also works closely with Kings County Department of Public Health (KCDPH) and local health clinics including Aria Health, Family HealthCare Network, and Adventist Health to assist clients with medical needs.
- **Legal assistance** – KCAO provides legal assistance with filing Temporary Restraining Orders through the end of the court process, which includes but is not limited to court accompaniment and working hand in hand with Victim Witness. All legal assistance is free of cost to Kings County residents at the shelter.
- **Psychological support and counseling** – KCAO provides therapy services free of cost to Kings County residents at the shelter. In this reporting year, 390 sessions have been provided with an average of 17 clients per month. Both Individual and group therapy are available.
- **Information regarding other available social services** – KCAO maintains a working relationship with community partners including KCDPH, HSA, KCBH and Kings View to ensure clients are connected to and receiving the appropriate services.

The 2022 agreement requests that the shelter maintain staff who are bilingual, which 90% of KCAO project staff are bilingual in English/Spanish. For other languages, KCAO maintains a contract with Orchid Translation Services. Language access notices are posted at the KCAO business office and at the Barbara Saville Shelter.

HSA requests the Board authorize the continued disbursement of funds from the County Domestic Violence Shelter Based Program Special Fund Trust to KCAO.

# **Exhibit A**

## EXHIBIT A

### Kings Community Action Organization Domestic Violence Programs Demographic and Program Data

	Domestic Violence Shelter Clients	Domestic Violence Service Center Clients
<b>Gender</b>		
Female	45	104
Male	22	7
Multiple Genders	1	1
Client prefers not to answer	0	3
<b>Race/Ethnicity</b>		
American Indian, Alaska Native, or Indigenous	1	0
Asian or Asian American	0	1
Black, African American, or African	2	6
Client prefers not to answer	0	4
Hispanic	24	43
Middle Eastern or North African	0	1
Multi-Racial	18	37
White	23	23
<b>Age</b>		
0-17	27	14
18-25	10	17
25-59	28	78
60+	3	6
<b>Average length of participation</b>	<b>54 days</b>	<b>47 days</b>
Low/High	1/180	1/258
<b>Total Clients</b>	<b>68</b>	<b>115</b>

KCAO Crisis Support Services include:

- Barbara Saville Shelter
- Domestic Violence Services
- Human Sex Trafficking
- Rape Crisis Program
- Sexual Assault Services including Sexual Assault Forensic Examination (SAFE) and Prison Rape Elimination Act (PREA)
- Elder Abuse Services
- 24-Hour Crisis Hotline 1-877-727-3225
- 988 Suicide & Crisis Lifeline
- Court Accompaniment
- Legal Advocacy Program







# COUNTY OF KINGS BOARD OF SUPERVISORS

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

## AGENDA ITEM August 20, 2024

**SUBMITTED BY:** Public Works Department – Dominic Tyburski/Natalie Brinson  
**SUBJECT:** SPECIAL EVENT REQUEST BY KINGS COUNTY SHERIFF’S POSSE FOR EXCLUSIVE ACCESS AND USE OF BURRIS PARK

**SUMMARY:**

**Overview:**

The Kings County Sheriff’s Posse has requested exclusive use of Burris Park on September 7, 2024 to ensure that uninvited guests would not enter the special event area(s) and to provide ease of access for invited guests to utilize the park.

**Recommendation:**

- a. Approve the special use agreement with the Kings County Sheriff’s Posse for the complete closure of Burris Park on September 7, 2024;
- b. Authorize the Public Works Director to sign the special use agreement.

**Fiscal Impact:**

There is no fiscal component or impact in this special use agreement.

**BACKGROUND:**

The Sheriff’s Posse crab feed fundraiser has been an annual event since 2015 and has been a continued success. The Parks Division wishes to continue fostering the relationship with Sheriff’s Posse by providing a suitable venue for their event.

The agreement 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 \_\_\_\_\_, 2024.

CATHERINE VENTURELLA, Clerk to the Board

By \_\_\_\_\_, Deputy.

**COUNTY OF KINGS**  
**AGREEMENT FOR SPECIAL EVENT OR USE OF COUNTY PARK**

THIS AGREEMENT is made and entered into on 8/5/\_\_\_\_, 2024 by and between the County of Kings, a political subdivision of the State of California, on behalf of the Department of Public Works, (“County”), and the Kings County Sheriff’s Posse (“Concessionaire”) (collectively the “Parties,” singularly a “Party,”).

**R E C I T A L S**

WHEREAS, Concessionaire desires to secure from County certain rights and privileges to use a County park, Burris Park, located at 6500 Clinton Avenue, Kingsburg, CA 93631 (the “Premises”) to hold an event on September 7, 2024 (the “Event”); and

WHEREAS, County is prepared to grant Concessionaire a license to use of Premises for the event.

NOW, THEREFORE, the Parties mutually agree as follows:

**1. GRANT OF USE**

County grants to Concessionaire a license to use Premises for its Event as set forth in **Exhibit A**. County reserves the right to enter the Premises at all times.

**2. FEES**

Concessionaire shall pay County the fees as set forth in **Exhibit B**.

**3. RIGHT OF USE**

Concessionaire shall only have the right to use the Premises after tendering to County all documentation and fees required under this Agreement.

Concessionaire shall not commit or permit any injury or damage to any part of the Premises, or its appurtenances nor any waste thereon. Concessionaire shall return the Premises to County in the same condition and repair the Premises was in before the Event, reasonable wear and tear excepted.

**4. SECURITY**

Concessionaire is responsible for Event security. Concessionaire shall cooperate with the Kings County Sheriff’s Office (“Sheriff”) to ensure sufficient security is on site at all times and follow any and all security recommendations or directives of the Sheriff.

In the event the Sheriff determines that security is inadequate or that a security risk is present at the Event, the Sheriff may immediately terminate the Event and evacuate the Premises. Said termination shall not constitute a breach of this Agreement.

## 5. TERM OF AGREEMENT

This Agreement commences on the date set forth in Exhibit A, and remains in full force and effect until both Parties have completed performance or the Agreement is otherwise terminated in accordance with its terms.

## 6. AMENDMENTS

The Parties may modify this Agreement only by a written amendment signed by the Parties.

## 7. TERMINATION

The right to terminate this Agreement under this section 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. Either party shall have the right to terminate this Agreement without cause by giving the other party thirty (30) calendar day's prior written notice of its intention to terminate pursuant to this provision, specifying the date of termination.

B. With Cause. This Agreement may be terminated by either party should the other party materially breach this Agreement. Upon a material breach, the non-defaulting party may either provide written notice to the defaulting party of its intention to terminate this Agreement and allow a period to cure the breach or elect to terminate this Agreement immediately. If the breach is not remedied within the cure period or the non-defaulting party elects to terminate this Agreement immediately, the non-defaulting party shall provide written notice specifying the date of termination.

If the County is the non-defaulting party and elects to cure the default, any expense incurred shall be payable by Concessionaire to County.

C. Effects of Termination. Termination of this Agreement shall not terminate any obligations of any liability to County for damages sustained by County because of any breach of contract by the Concessionaire, nor to indemnify, to maintain and make available any records pertaining to this Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities.

D. No Waiver of Breach or Default. In no event shall any action or inaction by County hereunder constitute a waiver by County of any breach of this Agreement or any default, which may then exist on the part of Concessionaire, nor shall such action or inaction impair or prejudice any remedy available to County with respect to the breach or default.

## **8. INDEMNIFICATION**

Concessionaire has the contracted duty (“the duty”) to indemnify, defend, and hold harmless, the County, its Board of Supervisors, officials, officers, employees, agents, and assigns from and against any and all claims, demands, liability, judgments, awards, interest, attorney’s fees, costs, experts’ fees, and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract, or otherwise. This duty shall include, but not be limited to, claims for bodily injury, property damage, personal injury, and contractual damages or otherwise alleged to be caused to any person or entity including, but not limited to invitees, employees, agents, and officers of Concessionaire.

Concessionaire’s liability for indemnity under this Agreement shall apply to any acts or omissions, willful misconduct, or negligent conduct of any kind, on the part of the Concessionaire, its invitees, attendees, agents, officers, subcontractors, and employees. The duty shall extend to any allegation or claim of liability except in circumstances found by a jury or judge to be the sole and legal result of the negligent or willful misconduct of County. This duty shall arise at the first claim or allegation of liability against County. Concessionaire will on request and at its expense defend any action suit or proceeding arising under this Agreement. This clause for indemnification shall be interpreted to the broadest extent permitted by law. 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. INDEPENDENT CONTRACTOR**

Concessionaire is an independent contractor and not an agent, officer, or employee of County. This Agreement is by and between two (2) 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.

## **10. COMPLIANCE WITH LAW**

Concessionaire, its vendors, officials, agents, employees, subcontractors, attendees, and invitees shall comply with all federal, state, and local laws, regulations, and use permits applicable to its Event, including, but not limited to, licensing, employment, and health and safety standards set forth by the State of California and/or

County.

Concessionaire, its vendors, officials, agents, employees, subcontractors, attendees, and invitees understand and agree that this includes, but is not limited to, compliance with the County's ordinances regarding the use, possession, cultivation, donation, giving, provision, sharing, transferring, sale, manufacturing, processing, distribution, dispensing, delivery, mobile delivery, and testing of marijuana. Concessionaire, vendors, and performers shall complete and return an acknowledgment of the County's marijuana ordinance, as attached hereto with a copy of the applicable ordinance as **Exhibit C**, as a condition of and prior to participating in the Event by the date selected by the Public Works Department.

Concessionaire shall promptly pay all taxes and assessments of any kind whatsoever assessed or levied for the use of the Premises and for any activities conducted during the Event.

#### **11. ASSIGNMENT**

Concessionaire shall not assign this Agreement to any third party without the prior written consent of County.

#### **12. UNFORESEEN CIRCUMSTANCES**

Neither party is responsible for any delay caused by natural disaster, war, civil disturbance, labor dispute, or other cause beyond the party's reasonable control.

#### **13. NOTICE**

Any notice necessary to the performance of this Agreement shall be given in writing by personal delivery or by prepaid first-class mail addressed as follows:

**County**

Natalie Brinson  
Kings County Parks Dept.  
1400 West Lacey Blvd., Building 6  
Hanford, CA 93230  
Natalie.brinson@co.kings.ca.us

**Concessionaire**

Larry Wilkinson  
Kings County Sheriff's Posse  
P.O. Box 1176  
Hanford, CA 93230  
kingscountysheriffsposse@gmail.com

If notice is given by personal delivery, notice is effective as of the date of personal delivery. If notice is given by mail, notice is effective as of three (3) days following the date of mailing or the date of delivery reflected upon a return receipt, whichever occurs first.

**14. 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. Kings County shall be the venue for any action or proceeding, in law or equity that may be brought in connection with this Agreement. Concessionaire 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.

**15. SEVERABILITY**

If any of the provisions of this Agreement is found to be unenforceable, the remainder shall be enforced as fully as possible and the unenforceable provision shall be deemed modified to the limited extent required to permit enforcement of the Agreement as a whole.

**16. SURVIVAL**

The following sections shall survive the termination of this Agreement: Section 9, Indemnification and Exhibit C, Insurance.

**17. MATTERS 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.

**18. NO THIRD PARTY BENEFICIARIES.**

County and Concessionaire 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 third party.

**19. ADDITIONAL REQUIREMENTS**

Concessionaire shall comply with the requirements set forth in the attached exhibits:

- A. **Exhibit D** – Insurance;
- B. **Exhibit E** – Security Deposit;

C. **Exhibit F** – Live Music; and

D. **Exhibit G** – Alcohol.

**20. ENTIRE AGREEMENT; CONTRIBUTIONS OF BOTH PARTIES**

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 Concessionaire other than those contained herein.

**21. AUTHORITY**

Each signatory to this Agreement represents that it is authorized to enter into this Agreement and to bind the Party to which its signature represents.

**22. ELECTRONIC SIGNATURES; COUNTERPARTS**

The Parties may execute this Agreement by electronic means. The electronic signatures affixed by the Parties respective signatories give rise to a valid, enforceable, and fully effective agreement.

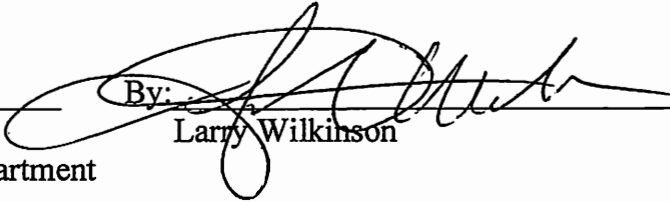
**SIGNATURES ON FOLLOWING PAGE**

IN WITNESS WHEREOF, the Parties executed this Agreement the day and year first written above.

COUNTY OF KINGS

KINGS COUNTY SHERRIFF'S POSSE


By: \_\_\_\_\_  
Dominic Tyburski, Director  
Kings County Public Works Department

By:   
Larry Wilkinson

APPROVED AT TO INSURANCE  
RISK MANAGEMENT

APPROVED AS TO FORM  
Diane Freeman, County Counsel

By:   
Name: Sarah Poots  
Title: Risk Manager

By:   
Willie Barrera  
Deputy County Counsel

Exhibits/Attachments:

- Exhibit A:** Description of Park, Event, and Dates
- Exhibit B:** Fees
- Exhibit C:** Acknowledgment of County's Marijuana Ordinance
- Exhibit D:** Insurance
- Exhibit E:** Deposit
- Exhibit F:** Live Music
- Exhibit G:** Alcohol



**EXHIBIT A**  
**DESCRIPTION OF PREMISES, EVENT, AND DATES**

1. Premises are specifically defined as Burris Park, in Kings County, California.
2. Concessionaire shall have the right to occupy Premises for the purpose and activities directly related to Event.
3. Concessionaire shall have access for the time period from September 7, 2024, which shall include the time, needed to set up, tear down, clean up, and remediate the Premises after the Event. Concessionaire shall have no right to occupy Premises outside of this period.
4. Premises, including the property and the facilities, are provided on an “as is” basis.
5. Concessionaire shall provide the County with a detailed timeline and map showing dates, times, and areas of set up for the Event at least fourteen (14) days prior to the Event.
6. Concessionaire shall comply with the following additional limitations:
  - a. Concessionaire shall ensure that he and any and all vendors selling merchandise, food, alcohol, or any other items at the Event have any and all licenses needed to operate their sites and sell their goods. Said licenses shall include, but are not limited to, licenses to sell merchandise, alcohol, and food and/or beverages.
  - b. Concessionaire shall ensure that parking for this Event is limited to the areas designated by the County and that sufficient boundaries and signs are posted to direct traffic to the designated parking area.
  - c. Concessionaire shall ensure that adequate parking spaces are provided to comply with the Americans with Disabilities Act (ADA).
  - d. Concessionaire shall ensure there are sufficient fire extinguishers and other fire apparatus, as determined by the Kings County Fire Marshal, on site at the Event.
  - e. Concessionaire shall ensure that sufficient generators are provided at the Event to provide power to vendors, entertainers, and the public.
  - f. Concessionaire shall ensure that sufficient portable toilets, including ADA accessible toilets, and hand washing stations, as determined by Kings County Department of Public Health, are present, working, and available at the Event at all times.

- g. Concessionaire shall provide trash clean-up services before, during, and after the Event, including the provision of additional trash containers as needed or as determined by the Kings County Department of Public Health.
- h. Concessionaire shall ensure that he and any and all vendors present at the Event comply with any and all directives or requirements of the Kings County departments of Public Health, Community Development, Parks and Recreation, Fire, and the Sheriff.

**EXHIBIT B**  
**FEEES**

1. Concessionaire shall pay County the following reservation fee:  
A flat rate of \$600 for use of the Premises for the Event.
2. Payment is due from Concessionaire immediately upon contract execution.

**Exhibit C**  
**ACKNOWLEDGEMENT OF COUNTY'S MARIJUANA ORDINANCE.**

I, John F Hattesen, operate \_\_\_\_\_ (name of business) KCS Pass, and will be participating in an event at Burris Park on SEPT 7, 2024 ("the Event"), as (the Concessionaire, or vendor/performer). I have read and understand the Kings County Code of Ordinances ("Code") regarding the use, possession, cultivation, donation, giving, provision, sharing, transferring, sale, manufacturing, processing, distribution, dispensing, delivery, mobile delivery, and testing of marijuana and acknowledge that the prohibitions contained therein apply to this Event. I further understand and agree that my signature on this Acknowledgment requires me to comply with and ensure the compliance of vendors, performers, their employees, volunteers, or agents with the Code regarding the use, possession, cultivation, donation, giving, provision, sharing, transferring, sale, manufacturing, processing, distribution, dispensing, delivery, mobile delivery, and testing of marijuana.

Date: 8-6-24

Signature: John F Hattesen on Behalf of Larry Wilkinson

Printed Name: JOHN F HATTESSEN -TREASURER

Name of business: KCS Pass

Kings County Code of Ordinances, ARTICLE V. - MARIJUANA<sup>[5]</sup>

Footnotes:

--- (5) ---

**Editor's note**— Ord. No. 677, § 2, adopted Oct. 4, 2016, repealed the former Art. V, §§ 14-50—14-55, and enacted a new Art. V as set out herein. The former article pertained to medical marijuana and derived from Ord. No. 656, § 1, 11-8-2011; Ord. No. 656.1, § 3, 2-2-2016. See the Code Comparative Table for a detailed analysis.

DIVISION 1. - GENERAL PROVISIONS

Sec. 14-50. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Collective* and *cooperative* refer to the collective or cooperative cultivation of marijuana, whether for nonmedical purposes or as described in Health and Safety Code Section 11362.775 and as referred to in Health and Safety Code Sections 11362.768 and 11362.83.

*Delivery* and *mobile delivery* refer to the delivery of marijuana to a point within the unincorporated area of Kings County from any point within or without said unincorporated area, whether or not possession of marijuana is legal at the source.

*Enforcing officer* means any county code or law enforcement officer pursuing enforcement of this article including, but not limited to, the director of public health, the director of the community development agency, the sheriff, and their authorized deputies or designees.

*Marijuana*, also known as *marihuana* or *cannabis*, means marijuana as defined in Health and Safety Code Section 11018.

*Marijuana business* or *commercial cannabis activity* means any activity involving cannabis undertaken for compensation of any kind or nature whatsoever, including but not limited to cultivation, processing, or sale of marijuana or a marijuana product, including a marijuana cooperative or collective, whether or not said cooperative or collective exists for medical or nonmedical purposes.

*Medical marijuana* and *medical marijuana use* means the use of cannabis for purposes set forth in the Compassionate Use Act and Medical Marijuana Program Act, California Health and Safety Code Sections 11362.5 and 11362.7 et seq.

*Nonmedical or recreational marijuana* and *nonmedical or recreational use of marijuana* refer to marijuana or the use thereof not falling within the category of medical marijuana and medical marijuana use.

Kings County Code of Ordinances, ARTICLE V. - MARIJUANA<sup>[5]</sup>

Footnotes:

--- (5) ---

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*Delivery* and *mobile delivery* refer to the delivery of marijuana to a point within the unincorporated area of Kings County from any point within or without said unincorporated area, whether or not possession of marijuana is legal at the source.

*Enforcing officer* means any county code or law enforcement officer pursuing enforcement of this article including, but not limited to, the director of public health, the director of the community development agency, the sheriff, and their authorized deputies or designees.

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*Nonmedical or recreational marijuana* and *nonmedical or recreational use of marijuana* refer to marijuana or the use thereof not falling within the category of medical marijuana and medical marijuana use.



*Primary caregiver* means an individual who has consistently assumed responsibility for the housing, health or safety of a qualified patient as contemplated by the Compassionate Use Act and the Medical Marijuana Program.

*Qualified patient* means an individual who is entitled to the protections of the Compassionate Use Act and the Medical Marijuana Program.

Except as otherwise provided for herein, definitions included in California Business and Professions Code Section 19300.5 are incorporated herein by reference. If Section 19300.5 subsequently is renumbered or amended, the definitions in the renumbered or amended statute shall apply, except that if the statute is repealed entirely, the definitions contained therein as of January 1, 2016, shall control unless reliance on any particular definition would conflict irreconcilably with current state law.

(Ord. No. 677, § 2, 10-4-16)

Sec. 14-51. - Ban.

- (a) Except where a California county is preempted by federal or state law from enacting a prohibition on any such activity, the use, possession, cultivation, donation, giving, providing, sharing, transfer, sale, manufacture, processing, distribution, dispensing, delivery, mobile delivery, and testing of marijuana is hereby prohibited in all zones within the County of Kings. Transportation of marijuana through the unincorporated area of the county is likewise prohibited except as otherwise provided by state or federal law. For clarity, and without limiting the generality of the foregoing or altering the definition of any term defined in this article, the ban herein extends to commercial cannabis activities, marijuana businesses, and medical or recreational cooperatives or collectives of any kind, nature, or extent whatsoever, and includes within the definition of "marijuana" food substances and topical solutions containing marijuana.
- (b) Any violation of subdivision (a), whether for recreational or medical purposes, is declared to be a public nuisance, and may be abated pursuant to the procedures described in sections 14-56 and 14-57 of this article.
- (c) Any violation of subdivision (a), whether for recreational or medical purposes, is a misdemeanor, subject to the exceptions to criminal liability provided for in section 14-60 of this article.
- (d) Each day or fraction of a day that an ongoing violation of subdivision (a) is allowed to occur shall be deemed to constitute a separate violation thereof.

(Ord. No. 677, § 2, 10-4-16)

Sec. 14-52. - Use and possession.

- (a) If the county is required under state law to allow use or possession of marijuana, to the maximum extent allowed by state law, use or possession shall remain subject to



the ban stated in section 14-51 if the use or possession is done in a manner that:

- (1) Is expressly declared to be a crime in this state;
  - (2) Occurs in any facility or venue open to members of the public;
  - (3) Occurs on any property owned or controlled by the County of Kings, including within the public right-of-way;
  - (4) Prevents the user from adequately supervising a minor in his or her custody or care, or otherwise imminently endangers the health or safety of a child;
  - (5) Provides any individual under the age of 21 with ready access to marijuana;
  - (6) Is intended to aid, abet, support, or encourage any individual under the age of 21 in using or possessing marijuana;
  - (7) Exposes any individual under the age of 21, or any adult without his or her unequivocal consent, to second-hand marijuana smoke, or otherwise constitutes a private nuisance to others by exposing them to noxious odors or other adverse health and safety impacts; or
  - (8) Negligently, willfully, knowingly, or intentionally deceives or otherwise causes any individual to smoke, ingest, or otherwise use or consume marijuana without that individual's knowledge and consent.
- (b) There shall be a rebuttable presumption that a person smoking, ingesting, or consuming marijuana or marijuana products is in violation of one or more of the restrictions stated in subdivision (a) unless such smoking, ingesting, or consumption occurs entirely in a fully enclosed area of a private residence with the knowledge and consent of the person legally in possession thereof, and in a manner that is not in plain view from outside the residence, with no one present who is under the age of 21 or otherwise who does not consent to the smoking, ingesting, or consumption; provided that, smoking, ingesting, or consuming marijuana under circumstances described herein shall not excuse anyone from otherwise complying with subdivision (a).
- (c) Penalties for violation of the conduct described in subdivision (a) shall be cumulative of penalties for any other included offense(s).
- (d) If a state law purporting to legalize use or possession of marijuana explicitly preserves local agencies' inherent land use authority, or is construed by a court of competent jurisdiction to preserve such authority, any use or possession of marijuana in the unincorporated area of Kings County shall be deemed a public nuisance, even if done in strict compliance with the requirements of this section.

(Ord. No. 677, § 2, 10-4-16)

Sec. 14-53. - Cultivation.

- (a) To the extent that the county is required to allow the cultivation of marijuana under

state law, whether for medical or recreational use, the following rules shall apply to the fullest extent allowed by state law:

- (1) *Personal use cultivation.* The cultivation of marijuana shall be subject to limits set forth in any applicable state law. An individual who may cultivate marijuana for personal use pursuant to state law ("qualified person"), shall be allowed to cultivate marijuana only within his/her private residence or in an attached garage or other fully enclosed and locked accessory structure located entirely on property owned or legally possessed by him or her. No outdoor cultivation is allowed within the unincorporated area of Kings County.
- (2) *Area.* In any residence, the marijuana cultivation area shall not exceed 32 square feet measured by the canopy, nor exceed ten linear feet in height. This limit applies regardless of the number of individuals residing in the residence. The cultivation area shall be a single designated area.
- (3) *Lighting.* Lighting for marijuana cultivation shall not exceed a total of 1,200 watts, or otherwise pose a fire or safety hazard.
- (4) *Building code requirements.* Any alterations or additions to the residence, including garages and accessory buildings, shall be subject to applicable building, fire, plumbing, and electrical codes, in addition to all applicable zoning codes, including lot coverage, setback, height, and parking requirements.
- (5) *Gas products.* The use of gas products, including but not limited to carbon dioxide and butane, for marijuana cultivation or processing is prohibited.
- (6) *Evidence of cultivation.* From outside the building wherein cultivation occurs, there shall be no exterior evidence of marijuana cultivation occurring on the site.
- (7) *Residence.* The qualified individual shall reside in the residence wherein the marijuana cultivation occurs.
- (8) *Cultivation elsewhere in the county.* The qualified individual shall not participate in cultivation in any other location within the unincorporated area of Kings County.
- (9) *Incidental use.* The residence shall maintain kitchen, bathrooms, and primary bedrooms for their intended use, and shall not be used primarily for marijuana cultivation.
- (10) *Ventilation.* The marijuana cultivation area shall include a ventilation and filtration system designed to ensure that odors from cultivation are not detectable beyond the residence (or property line for detached single family residences), and designed to prevent mold and moisture and otherwise protect the health and safety of persons residing in the residence. This shall include at a minimum, a system meeting the requirements of the current adopted edition of the California Building Standards Code, including Building Code Section 1203.5 (Natural Ventilation) and Mechanical Code Section 402.3 (Mechanical Ventilation) or the

equivalent(s) thereof.

- (11) *Use and storage of chemicals.* For the protection of local groundwater resources and indoor air quality, and to avoid disposal of harmful substances into sewers or septic systems, no chemical shall be used for marijuana cultivation that contains any substance on the list prepared pursuant to Health and Safety Code Section 25249.8; provided that any chemical specifically approved by the California Department of Pesticide Regulation for indoor use on marijuana may be used in amounts prescribed by the department. No chemical used for marijuana cultivation shall be stored in a manner visible from neighboring residences or to individuals located outside the property line or in the public right-of-way.
- (12) *Nuisance.* The marijuana cultivation area shall not adversely affect the health or safety of nearby residents by creating dust, glare, heat, noise, noxious gasses, odors, traffic, vibrations, or other impacts. Nor shall marijuana cultivation be hazardous due to the use or storage of materials, processes, products, or wastes, or from any actions incidental or related to the cultivation.
- (13) *Property owner authorization.* For rental property, the lessee shall obtain written permission from the property owner or property management company to cultivate marijuana.
- (14) *Property owner notification.* If the requirement in paragraph (13) is determined by a court of competent jurisdiction not to be an enforceable condition of cultivating marijuana, then at a minimum as a condition of registering his or her cultivation pursuant to paragraph (15), a registrant shall be required to certify under penalty of perjury either that he or she is the legal owner of the residence wherein cultivation will occur, or that he or she has notified the property owner or management company of his or her intended registration. If the registrant is other than the current owner of the property wherein cultivation will occur, as shown on the last equalized assessment roll, the sheriff or his or her designee is hereby authorized to mail notification of the registration to said current owner or authorized agent thereof; provided that only the fact of registration shall be disclosed in such notification, and if the registrant is a qualified patient, neither this fact nor any medical information made known to the sheriff or designee concerning registrant shall be disclosed. Notice to the foregoing effect shall be stated in capital letters in no less than 12-point font on any registration form approved by the sheriff pursuant to paragraph (15). This provision for notification shall not create on the part of the sheriff, the County of Kings, or any officer, agent, or employee thereof, a legally enforceable duty to property owners to provide such notification.
- (15) *Registration.* Before cultivating marijuana inside any residence, the proposed cultivator shall register the cultivation with the sheriff or his or her designee, using a form approved by the sheriff for this purpose. At the time of

registration, the registrant shall be given a brochure or other handout summarizing the requirements herein prescribed in plain English and shall, as applicable, demonstrate compliance with any provision hereof or agree in writing to comply with said provisions at all times in connection with the proposed cultivation. The failure on the part of the sheriff or his or her designee to provide notice to a registrant of any requirement herein prescribed shall not relieve the registrant of the obligation to be familiar with and to abide by said requirement. For existing cultivation, registration shall occur within ten days of date that this section shall become operative. The sheriff may direct the registrant to the Kings County Community Development Agency and/or agriculture commissioner for more information about additional requirements that may apply. Any medical information obtained by the sheriff regarding a registrant who is a qualified patient shall be kept confidential to the extent required by law.

- (16) *Additional requirements for garages and accessory buildings.* The following additional requirements shall apply for personal use cultivation that occurs in a garage or other accessory building: the garage or other accessory building shall be secure, locked, and fully enclosed, with a ceiling, roof or top, and entirely opaque. The garage or other accessory building shall include a burglar alarm monitored by an alarm company or private security company. The garage or other accessory building, including all walls, doors, and the roof, shall be constructed with a firewall assembly of green board meeting the minimum building code requirements for residential structures and include material strong enough to prevent entry except through an open door.
- (b) Even if the county is required to allow the cultivation of marijuana under state law, cultivation not in strict compliance with the requirements of subdivision (a) shall be subject to the ban stated in section 14-51, to the fullest extent allowed by state law.
- (c) Cultivation for medical use that meets the requirements of section 14-60 of this article, but that is not done in strict compliance with the requirements of subdivision (a), is declared to be a public nuisance even though not subject to criminal sanction pursuant to this Code.
- (d) If a state law purporting to legalize personal cultivation of marijuana explicitly preserves local land use authority or is so construed by a court of competent jurisdiction, any cultivation of marijuana in the unincorporated area of Kings County shall be deemed a public nuisance, even if done in strict compliance with this section. (For medical marijuana, see, e.g., *Kirby v. Co. of Fresno* (2015) 242 C.A.4th 940.)
- (e) The sheriff shall be authorized to charge a fee for the registration described in paragraph (15) of subdivision (a) of this section, which shall be approved by the board of supervisors and included in the county's fee schedule. The amount of the fee shall not exceed a reasonable estimate of the actual direct and indirect cost per registrant to the sheriff of administering the registration requirement.

(Ord. No. 677, § 2, 10-4-16)

Sec. 14-54. - Deliveries.

- (a) If a court of competent jurisdiction construes any state law to prohibit the county from banning mobile deliveries of medical or nonmedical marijuana from a licensed premise outside the unincorporated area of Kings County to a location within the unincorporated area of the county, then the following restrictions on deliveries shall apply to the fullest extent allowed under state law:
- (1) The order for the delivery shall have been placed at the premises of the licensed facility outside of the unincorporated area of Kings County from which the delivery shall originate.
  - (2) No delivery shall occur within 600 feet of an area where minors congregate, such as a school, park, youth center, or day care facility. This distance shall be the horizontal distance measured in a straight line from the property line of the school or other facility to the closest property line of the lot on which the delivery occurs.
  - (3) The vehicle from which the delivery is being made shall not in any manner advertise that it is carrying marijuana.
  - (4) Not more than 28.5 grams of marijuana may be delivered to any single person, or eight grams if concentrated.
  - (5) The marijuana will remain in an opaque, fully enclosed, and locked container until the time of its delivery to the purchaser, which shall occur indoors on private property out of view of the general public, and without children present at the time.
  - (6) The marijuana shall be physically handed to the purchaser thereof, and no delivery shall be completed if the purchaser is not present to receive the marijuana personally. The identity and age of the person receiving the marijuana shall be verified by the person completing the delivery, who shall require the purchaser to show a valid government issued identification card bearing a photograph and birth date.
- (b) Even if the county is required to allow mobile deliveries under state law, deliveries not in strict compliance with the requirements of subdivision (a) shall be subject to the ban stated in section 14-51, to the fullest extent allowed by state law.
- (c) If a state law purporting to legalize delivery of marijuana explicitly preserves local land use authority or is construed by a court of competent jurisdiction to preserve the same, any delivery of marijuana in the unincorporated area of Kings County shall be deemed a public nuisance, even if done in strict compliance with this section.

(Ord. No. 677, § 2, 10-4-16)

Sec. 14-55. - Penalty.

Any person committing any act declared by this division to be a misdemeanor shall be subject to a maximum penalty of one year imprisonment in the county jail, a fine of \$1,000.00, or both, cumulative of any other criminal, civil, or administrative penalties or enforcement remedies prescribed by law, including any administrative penalties or nuisance enforcement actions as may be provided for herein in this article. Notwithstanding the foregoing, no fine or penalty imposed pursuant to this article shall exceed the maximum fine or penalty provided for under any state law for the same conduct, act, omission, occurrence, or circumstance for which the fine or penalty is being imposed.

(Ord. No. 677, § 2, 10-4-16)

Sec. 14-56. - Administrative penalties and nuisance abatement.

- (a) Violation of any provision of this article shall be deemed a public nuisance and may be enforced by any remedy available to the county for abatement of public nuisances.
- (b) Each and every violation of this article shall constitute a separate violation and shall be subject to all remedies and enforcement measures enumerated in this article, in the Kings County Code of Ordinances, and in state law. Each and every day that a violation of this article continues to exist shall constitute a separate and distinct violation subject to all available remedies and enforcement:
  - (1) As a nuisance per se, any violation of this article shall be subject to injunctive relief, revocation of the registration of occupancy for the location, disgorgement and payment to the county of any and all monies unlawfully obtained, cost of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or equity. The county may also pursue any and all remedies and actions available and applicable under local and state laws for any violations of this article.
  - (2) Each and every violation of this article is subject to an administrative fine of \$100.00 for the first violation, \$200.00 for the second violation within one year, and \$500.00 for every subsequent violation within one year; provided that no fine imposed pursuant to this section shall exceed any maximum fine or penalty provided for under any state law for the same conduct, act, omission, occurrence, or circumstance for which the fine is being imposed.
- (c) All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided by law. Nothing in this article shall be deemed to authorize or permit any activity that violates any provision of state or federal law.

- (d) Nothing in this article shall be construed as imposing on the enforcing officer or the County of Kings any duty to penalize or abate any activity forbidden by the article, and neither shall the enforcing officer nor the County of Kings be held liable for failure to carry out such enforcement activity.

(Ord. No. 677, § 2, 10-4-16)

Sec. 14-57. - Nuisance abatement procedures.

- (a) *Notice.* Whenever an enforcing officer determines that a public nuisance exists in violation of this article on any premises within the unincorporated area of Kings County, he or she is authorized to issue a written notice of abatement and/or administrative citation that includes the following information:
- (1) Identity of the owner(s) of the property upon which the nuisance exists, as named in the records of the county assessor, and identity of the occupant(s), if other than the owner(s), if known;
  - (2) Describe the location of the property sufficient to produce notice of its location (e.g., commonly used street address or the assessor's parcel number);
  - (3) State what section of this article has been violated;
  - (4) Describe the unlawful activity and the actions required to abate said activity;
  - (5) State that the owner or occupant is required to abate the public nuisance within a reasonable time which should not exceed 15 calendar days after the date that said notice was served;
  - (6) State that the owner or occupant may, within 15 calendar days after the date that said notice was served, make a request in writing to the clerk of the board of supervisors for a hearing to appeal the determination of the enforcing officer that the conditions existing constitute a public nuisance, or other cause why those conditions should not be abated in accordance with this article;
  - (7) State that, unless the owner or occupant abates the nuisance or requests a hearing before the board of supervisors, within the time prescribed in the notice, the enforcing officer may abate the nuisance. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the county assessment roll and become a lien on the real property, or be placed on the unsecured tax roll;
  - (8) The amount of the fine, if any, and a statement of how and where the fine may be paid and time period within which it must be paid; and
  - (9) The name and signature of the enforcing officer.
- (b) *Service of notice.* The notice and/or citation set forth in subdivision (a) shall be served personally, by mail or by posting and the date of service is deemed to be the date of deposit in the mail, personal delivery, or posting, as applicable. Failure to

receive any notice and/or citation does not affect the validity of the proceedings conducted hereunder.

- (1) *Personal service.* Notice and/or citation may be served by delivering it personally to the owner and/or to the occupant.
  - (2) *Service by mail.* Notice and/or citation may be served by mailing it by certified mail, postage prepaid with a return receipt requested, and by simultaneously mailing notice by first class United States mail. If notice and/or citation is sent by certified mail and returned unsigned then service shall be deemed effective pursuant to the first class mail, provided that the first class mail is not returned by the United States Postal Service undeliverable. Notice and/or citation shall be mailed to the occupant of the property at the address thereof, and to any non-occupying owner at his or her address as it appears on the last equalized assessment roll, except that if the records of the county assessor show that the ownership has changed since the last equalized assessment roll was completed, the notice and/or citation shall also be mailed to the new owner at his or her address as it appears in said records.
  - (3) *Posted notice.* In the event that, after reasonable effort, the enforcing officer is unable to serve the notice and/or citation personally or by mail, service shall be accomplished by posting two copies of the notice and/or citation on the real property upon which the nuisance exists or by posting it on any real property within the county in which the county has knowledge that the responsible person has a legal interest.
- (c) *Administrative review.* Any person upon whom an abatement notice or an administrative citation has been served may appeal to the board of supervisors the determination of the enforcing officer that the conditions set forth in the notice constitute a public nuisance, or may show cause before the board of supervisors why those conditions should not be abated in accordance with the provisions of this article. Any such administrative review shall be commenced by filing a written request for a hearing with the clerk of the board of supervisors within 15 calendar days after the date that said notice or citation was served. The written request shall include a statement of all facts supporting the appeal. The time requirement for filing such a written request shall be deemed jurisdictional and may not be waived. In the absence of a timely filed written request that complies fully with the requirements of this section, the findings of the enforcing officer contained in the notice and/or citation shall become final and conclusive on the 16th day following service of the notice and/or citation.
- (1) Upon timely receipt of a written request for hearing which complies with the requirements of this section, the clerk of the board of supervisors shall set a hearing date not less than 15 days nor more than 60 days from the date the request for hearing was filed. The clerk shall send written notice of the hearing date to the requesting party, to any other parties upon whom the notice and/or



citation was served, and to the enforcing officer.

- (2) Any hearing conducted pursuant to this article need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The board of supervisors has discretion to exclude evidence if it is irrelevant or if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
  - (3) The board of supervisors may continue the administrative hearing.
  - (4) A quorum of board of supervisors shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the abatement notice and/or administrative citation. The board of supervisors shall issue a written decision in the form of a resolution, which shall include findings relating to the existence or nonexistence of the alleged nuisance, as well as findings concerning the propriety and means of abatement of the conditions set forth in the notice and/or citation. Such decision shall be mailed to, or personally served upon, the party requesting the hearing, any other parties upon whom the notice and/or citation was served, and the enforcing officer.
  - (5) The decision of the board of supervisors shall be final and conclusive.
- (d) *Liability for costs.* In any enforcement action brought pursuant to this article, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains the nuisance to exist shall be liable for all costs incurred by the county, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this article, whether those costs are incurred prior to, during, or following enactment of this article. In any action by the enforcing officer to abate the nuisance under this article, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorney's fees under this subdivision shall be limited to those actions or proceedings in which the county elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the county in the action or proceeding.
- (e) *Enforcement.* Whenever the enforcing officer becomes aware that an owner or occupant has failed to abate anything declared herein to be a nuisance within 15 days of the date of service of the abatement notice or citation unless timely appealed, or of

the date of the decision of the board of supervisors requiring such abatement, the enforcing officer may take one or more of the following actions:

- (1) Enter upon the property and abate the nuisance by county personnel, or by private contractor under the direction of the enforcing officer. The enforcing officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work, if necessary. If any part of the work is to be accomplished by private contract, that contract shall be submitted to and approved by the board of supervisors prior to commencement of work. Nothing herein shall be construed to require that any private contract under this article be awarded through competitive bidding procedures where such procedures are not required by the general laws of the State of California; and/or
  - (2) Request that the county counsel commence a civil action to redress, enjoin, and abate the public nuisance; and/or
  - (3) Continue issuing administrative fines each and every day that the nuisance remains in violation of this article.
- (f) *Accounting.* The enforcing officer shall keep an account of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, to the board of supervisors showing the cost of abatement and the administrative costs for each parcel.
- (1) *Notice of hearing on accounting; waiver by payment.* Upon receipt of the account of the enforcing officer, the clerk of the board of supervisors shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, he or she has the right to appeal the accounting to the board by filing a written request for appeal hearing with the clerk of the board of supervisors within ten calendar days of the date of service of the accounting according to subdivision (b) above. The determination of the enforcing officer on the accounting shall be final unless a timely appeal to the board is requested. Failure to timely appeal the accounting determination of the enforcing officer is a failure to exhaust administrative remedies. Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration shall be deemed a waiver of the right to appeal the accounting and an admission that said accounting is accurate and reasonable.
  - (2) *Hearing on accounting.*
    - a. The board of supervisors shall meet to review the report of the enforcing officer after receiving a written request for appeal. An owner may appear at said time and be heard on the questions whether the accounting, so far as it pertains to the cost of abating a nuisance upon the land of the owner is accurate and the amounts reported reasonable. The cost of administration shall also be reviewed.

- b. The report of the enforcing officer shall be admitted into evidence and shall be prima facie evidence of the cost reported therein. The owner shall bear the burden of proving that the accounting is not accurate and reasonable.
  - c. The board of supervisors shall also determine whether or not the owner had actual knowledge of the nuisance or could have acquired such knowledge through the exercise of reasonable diligence. If it is determined at the hearing that the owner did not have actual knowledge of the nuisance, and could not have acquired such knowledge through the exercise of reasonable diligence, costs for the abatement shall not be assessed against such parcel or otherwise attempted to be collected from the owner of such parcel.
  - d. The board of supervisors shall make such modifications in the accounting as it deems necessary and thereafter shall confirm the report by resolution.
- (g) *Special assessment and lien.* The board of supervisors may order that the cost of abating nuisances pursuant to this article and the administrative costs as confirmed by the board be placed upon the county tax roll by the county auditor as special assessments against the respective parcels of land, or placed on the unsecured roll, pursuant to Government Code Section 25845; provided, however, that the cost of abatement and the cost of administration as finally determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll. The board of supervisors may also cause notices of abatement lien to be recorded against the respective parcels of real property pursuant to Government Code Section 25845.
- (h) *Enforcement by civil action.* As an alternative to the procedures set forth above, the county may abate the violation of this article by the prosecution of a civil action through the office of the county counsel, including an action for injunctive relief. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this article or requiring compliance with other terms.
- (i) *Summary abatement.* Notwithstanding any other provision of this article, when anything declared in this article to be a nuisance constitutes an immediate threat to public health or safety, and when the procedures set forth above would not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the county to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the persons identified, but the formal notice and hearing procedures set forth in this article shall not apply. The county may nevertheless recover its costs for abating that nuisance in the manner set forth above.

(Ord. No. 677, § 2, 10-4-16)

Sec. 14-58. - Severability.

If any section, subdivision, sentence, clause, phrase, term, or other portion of this

article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portion of this article.

(Ord. No. 677, § 2, 10-4-16)

Sec. 14-59. - Reserved.

## DIVISION 2. - MEDICAL MARIJUANA

Sec. 14-60. - Exception to criminal liability for medical marijuana.

- (a) This section contains exceptions to criminal liability for violations of this article. The restrictions contained herein apply to the maximum extent allowed under state law. Nothing contained herein shall be deemed to permit anything otherwise declared by this article to be a nuisance, so that cultivation, use, or possession of marijuana may still constitute a nuisance within the unincorporated area of Kings County, even if done in conformance with this section.
- (b) Cultivation of marijuana for personal medicinal use by a qualified patient or his or her primary caregiver is exempt from criminal liability under section 14-51, provided that such cultivation occurs only within a secured, locked and fully enclosed structure on the patient or primary caregiver's personal residence as allowed by and consistent with California Health and Safety Code Section 11362.5 et seq. Notwithstanding the provisions of California Health and Safety Code Section 11362.777, subdivision (g), although the cultivation area should not exceed 100 square feet, a qualified patient or primary caregiver may cultivate no more marijuana than is necessary to meet the patient's medical needs, so that a smaller area restriction may apply. There shall be a rebuttable presumption that a patient requires less than six mature or 12 immature marijuana plants for medical purposes, pursuant to Health and Safety Code Section 11362.77, subdivision (a). For reference purposes only, it is noted that a single marijuana plant can produce up to one pound of marijuana, which is enough to produce approximately 800 marijuana cigarettes, and a single dose of marijuana can affect cognitive functioning for as long as three hours or more, so that six plants can produce enough marijuana to keep an individual continuously intoxicated during waking hours for up to three years. As used herein, the term "locked and fully enclosed structure," means a structure that is locked and reasonably secure from intruders from all sides, including from the top, and that is designed in such a manner so that the contents of the structure are not visible from outside the property whereupon cultivation is occurring.
- (c) Consistent with California Health and Safety Code Section 11362.5 et seq., use and possession of marijuana by a qualified patient, and possession by a primary caregiver, is exempt from criminal liability under section 14-51 if all of the following circumstances are true:

- (1) The use or possession occurs only in the qualified patient's private residence or otherwise on private property with the permission of the person legally in possession thereof, provided that possession by a primary caregiver of a medically appropriate amount of marijuana solely for delivery directly to a qualified patient for personal medical use, and done in a manner that otherwise satisfies the requirements and purposes of this subdivision, also falls within the exception to criminal liability provided for herein.
  - (2) The use or possession is for personal, medical use only. The qualified patient may not engage in use that is primarily social or recreational, and may not use or possess more marijuana than is necessary to meet his or her medical needs. Neither may the qualified patient share, donate, transfer, or otherwise provide marijuana to any other person. It shall be presumed that the gathering of a qualified patient to use or possess marijuana at the same time and location as another individual who is using, possessing, or under the influence of marijuana, or who intends imminently to use, possess, or be under the influence of marijuana, is primarily for social or recreational purposes. This presumption may be rebutted by clear and convincing evidence to the contrary.
  - (3) The use or possession does not threaten the health, safety, or welfare of any other individual, and in particular poses no risk of child endangerment.
- (d) An individual purporting to be a qualified patient or primary caregiver who seeks to rely on any exception to criminal liability provided for herein shall have the burden of establishing the exception. Although no single factor shall be dispositive, relevant evidence may include the following: an explanation of the individual's activities that is credible in view of all surrounding circumstances; possession of an identification card issued pursuant to the Medical Marijuana Program, enacted at California Health and Safety Code Section 11362.7 et seq.; a copy of a doctor's recommendation; and, in the case of a primary caregiver, a written note from a qualified patient confirming the caregiver's status.
- (e) A determination by a court of competent jurisdiction that the exceptions to criminal liability provided for in subdivisions (b) and (c) of this section are drawn too narrowly to comport with state law shall not be construed to impair the ability of the county to enforce this section in its entirety under the county's land use and nuisance abatement authority. Pursuant to California Penal Code Section 373a, failure to abate upon proper notice anything declared herein to be a nuisance is a misdemeanor.

(Ord. No. 677, § 2, 10-4-16)

Sec. 14-61. - Findings and purpose.

- (a) In 1996, the voters of the State of California approved the Compassionate Use Act (CUA), which is codified in Health and Safety Code Section 11362.5.
- (b) The intent of the CUA was to ensure that seriously ill Californians who are in need of

marijuana for medical purposes are not subject to criminal prosecution. The CUA further provides that "nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes."

- (c) In 2004, the legislature enacted the "Medical Marijuana Program" (MMP), which is codified in Health and Safety Code Section 11362.7 et seq., to clarify the scope of the CUA, facilitate the prompt identification of qualified patients and primary caregivers, avoid unnecessary arrest and prosecution of these individuals, provide needed guidance to law enforcement officers, promote uniform and consistent application of the CUA, and enhance access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects.
- (d) Health and Safety Code Section 11362.83 expressly allows cities and counties to adopt and enforce ordinances that are consistent with the MMP. Section 11362.83 was amended by Assembly Bill 1300 (approved by the governor on August 31, 2011) to specifically allow cities and counties to adopt and enforce ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective, as well as the civil and criminal enforcement of such an ordinance.
- (e) The Federal Controlled Substance Act (CSA), 21 U.S.C. § 801 et seq., classifies marijuana (spelled "marihuana" in the Act) as a Schedule I drug meaning that it has a high potential for abuse, that it has no currently accepted medical use for treatment in the United States, and that it has not been accepted as safe for use under medical supervision; and therefore it is unlawful to cultivate, manufacture, distribute, dispense, or possess marijuana.
- (f) The CUA and the MMP primarily address the criminal law, providing qualified patients and primary caregivers with limited immunity from state criminal prosecution under certain identified statutes. Courts repeatedly have upheld the power of local communities to use their land use authority to regulate or ban activities or land uses involving medical marijuana.
- (g) In 2015, the legislature enacted the Medical Marijuana Regulation and Safety Act (MMRSA), which amended the MMP and added provisions to the Business and Professions Code, codified at Section 19300 et seq. to: (1) require licensure for commercial cannabis activities, and (2) to phase out the use of cooperatives and collectives as a means to cultivate and distribute medical marijuana to patients. The MMRSA includes numerous protections that preserve traditional local land use authority, including protections found at California Health and Safety Code Section 11362.777, and California Business and Professions Code Sections 19315, 19316, 19320, 19322, 19330, and 19340.
- (h) Although California Health and Safety Code Section 11362.777, subdivision (a), enacted as part of the MMRSA, declares marijuana to be an agricultural product, the language is clear that this designation is solely for purposes of that statute.

Additionally, California Business and Professions Code Section 19300.5, subdivision (s), is clear that "edible cannabis product[s]" are neither food nor medicine. The Kings County Development Code defines "agriculture" at section 401 of the code to include only "legal practices for the cultivation and tillage of the soil." (See also Kings County Development Code, sections 107.C, F, 113.A.7 [forbidding illegal land uses]; Kings County Ordinance Code, section 14-38(b) [declaring that a "lawfully established" agricultural practice is not a nuisance].) Because cultivation of marijuana is currently illegal under the CSA, marijuana is not an "agricultural product" for purposes of this Code or the Kings County Development Code. In light of these circumstances, together with the fact that nearly all of Kings County's groundwater basins are critically overdrafted, and locally available ground and surface water resources are needed for the production of food and fiber cultivated consistently with federal, state, and local law, the use of local water resources for the cultivation of marijuana is not a reasonable and beneficial use of those resources.

- (i) Several neighboring communities have documented through law enforcement and media reports serious, adverse impacts associated with the cultivation, distribution and use of medical marijuana including increased crime, burglaries, robberies, violence, illegal sales and use of marijuana, and other negative secondary effects such as smoking marijuana in public areas, odor complaints and adverse impacts on businesses, all of which the County of Kings could reasonably anticipate experiencing as a result of any commercial cannabis activity. The issues surrounding the cultivation, distribution and use of medical marijuana are documented in the California Police Chiefs Association's Task Force on Marijuana Dispensaries "White Paper on Marijuana Dispensaries" (2009), the United States Department of Justice "The DEA Position on Marijuana" (2011), and the White House Office of National Drug Control Policy. The regulations in this division seek to protect the health, safety and welfare of the residents of Kings County while still providing reasonable accommodation for the cultivation, distribution and use of medicinal marijuana within the unincorporated territories of Kings County in accordance with state law.
- (j) Kings County has received numerous complaints from the general public regarding the cultivation, use and distribution of marijuana within the county including concerns for personal safety and inhalation of second hand marijuana smoke. Kings County, as well as neighboring counties of Fresno and Tulare, have each experienced homicides and home invasions related to the cultivation or dispensing of marijuana.
- (k) Allowing commercial cannabis activities poses a threat to the public health, safety and welfare of the residents of Kings County. Adopting the regulations contained in this division are necessary and appropriate to maintain and protect the public health, safety and welfare of the residents of Kings County, and by adopting the regulations contained in this division, the board anticipates a significant reduction in the aforementioned harms threatened by the unregulated cultivation, distribution and consumption of marijuana in the unincorporated areas of Kings County.

- (l) The county recognizes the law enforcement dilemma created due to the conflict between the CSA and the state CUA, MMP, and MMRSA, and that federal courts have determined that, despite the CUA, MMP, and MMRSA, marijuana has no accepted medical uses and therefore the federal government may enforce the CSA. (*Gonzales v. Raich* (2005) 545 U.S. 1.) While the county in no manner intends or undertakes by adoption of this division to enforce federal law, the county is concerned about interfering with federal law enforcement efforts.
- (m) Pursuant to 18 U.S.C. § 2(a), it is a federal crime to aid, abet, counsel, command, induce, or procure the commission of a violation of federal criminal law. The board of supervisors therefore finds that it is not in the public interest for the County of Kings to facilitate commercial cannabis activities in violation of federal law through a regulatory scheme that expressly permits and licenses such activities.
- (n) Nothing in this division shall be construed to allow the use of marijuana for non-medical purposes, or allow any activity relating to cultivation, distribution, or consumption of marijuana that is otherwise illegal under state or federal law. No provision of this division shall be deemed a defense or immunity to any action brought against any person by the Kings County District Attorney, the California Attorney General, or the United States of America.

(Ord. No. 677, § 2, 10-4-16)

Secs. 14-62—14-74. - Reserved.



**EXHIBIT D**  
**INSURANCE**

Without limiting County's right to obtain indemnification from Concessionaire or any third parties, prior to occupying the Premises, Concessionaire shall purchase and maintain, and require any and all vendors or performers for this Event to 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 their Insurance Carrier guaranteeing such coverage to County. Such Certificate for the Concessionaire shall be provided to the County's Risk Manager at least thirty (30) days prior to the Event. Certificates for vendors and performers shall be provided at least five (5) days prior to the Event. In the event Concessionaire, vendors, or performers fails to obtain or 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.

A. Insurance amounts.

1. Commercial General Liability. One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) 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 Two Hundred Fifty Thousand Dollars (\$250,000) per person, Five Hundred Thousand Dollars (\$500,000) per accident and for property damages not less than Fifty Thousand Dollars (\$50,000), or such coverage with a combined single limit of Five Hundred Thousand Dollars (\$500,000). Coverage should include owned and non-owned vehicles used in connection with this Agreement.

3. Workers Compensation. Statutory coverage, if and as required according to the California Labor Code, including Employers' Liability limits of \$1,000,000 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the County.

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.

The County's Risk Manager may waive any or all part of these requirements for vendors or performers at the Event on a case by case basis. Requests for waiver shall be submitted in writing at least fourteen (14) days before the Event and shall include the reasons for the request, as well as proof of the insurance currently maintained by the vendor or performer. The County Risk Manager's decision is final and non-appealable.

**EXHIBIT E**  
**DEPOSIT**

1. Concessionaire agrees to deposit zero dollars (\$0.00) with the County to guarantee payment of:
  - a. Any money which may be due to County under this Agreement; and
  - b. Any damage to Premises;
  - c. Removal of Concessionaire's personal property which may be left on Premises in violation of the terms of this Agreement;
  - d. Removal of personal property of Concessionaire's vendors or others who attended, participated in, or who occupied Premises for the purpose and activities directly related to Event; and
  - e. Any cost to the County of restoring the Premises that had been occupied by Concessionaire and were left in an unsafe or unsatisfactory condition.
2. Payment is due from Concessionaire upon contract execution.
3. The deposit shall be refunded to the Concessionaire, minus any amounts needed to cover the above within thirty (30) days after the Event.
4. The deposit shall be included in the amount paid as fees as set forth in **Exhibit B** to this Agreement.

**EXHIBIT F**  
**LIVE MUSIC**

In the event live music is to be performed at this Event, Concessionaire shall ensure that any and all Kings County Ordinances regarding the lights, sound levels and decibels, and times for performance are complied with, as determined by the Kings County Department of Community Development or any other County department. Live music is only permitted to be performed in areas designated as live music areas.

**EXHIBIT G**  
**ALCOHOL**

In the event alcohol is to be consumed at this Event, Concessionaire shall ensure that no alcoholic beverages are provided, sold, made available, served, or consumed by minors. In the event a minor is found to have been provided, sold, made available, served, or consuming alcohol at this Event, the County reserves the right to immediately shut down the Event, fine the Concessionaire and/or the vendor \$1,000 per violation, over and above any other applicable fines, and report the violation to the State's Alcohol and Beverage Control (commonly known as the ABC).

Concessionaire shall ensure that vendors, their employees, volunteers, and agents selling, dispensing, providing, or serving alcohol comply with any and all licensing requirements for the provision, sale, making available, serving, or consumption of alcohol on the Premises.

Concessionaire understands and agrees that any violation of the Kings County Ordinances regarding alcohol will be grounds for the immediate termination of this Event as well as a basis for any and all applicable fines or fees as allowed under the Kings County Ordinances or State or Federal law.





# COUNTY OF KINGS BOARD OF SUPERVISORS

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

## AGENDA ITEM August 20, 2024

**SUBMITTED BY:** Department of Public Health – Rose Mary Rahn/Everardo Legaspi

**SUBJECT:** NATIONAL BREASTFEEDING MONTH PROCLAMATION

**SUMMARY:**

**Overview:**

The Kings County Department of Public Health (KCDPH) Women, Infants, and Children Program requests the Board to proclaim the month of August 2024 as “National Breastfeeding Month” in Kings County. By joining the nation in observing this month, the County will bring awareness regarding the importance of breastfeeding to the community for the health of infants and children.

**Recommendation:**

**Adopt a resolution proclaiming the month of August 2024 as National Breastfeeding Month in Kings County.**

**Fiscal Impact:**

None.

**BACKGROUND:**

Since 2011, the United States (U.S.) Breastfeeding Committee has had a Congressional Proclamation to declare the month of August as National Breastfeeding Month in the U.S. This proclamation is an opportunity to advance awareness of the benefits of breastfeeding through collaboration, leadership, and advocacy so families can have the opportunity to breastfeed. Breastfeeding, or human milk feeding, is the biological norm for infant feeding. Research shows it to be an important primary prevention strategy that builds a lifelong foundation for health and wellness.

During National Breastfeeding Month, KCDPH is promoting educational programs, seeking to remove barriers and stigmas associated with breastfeeding, and disseminating information to empower and educate women about

(Cont'd)

BOARD ACTION:

APPROVED AS RECOMMENDED: \_\_\_\_\_ OTHER: \_\_\_\_\_

I hereby certify that the above order was passed and adopted  
on \_\_\_\_\_, 2024.

CATHERINE VENTURELLA, Clerk to the Board

By \_\_\_\_\_, Deputy.

## **Agenda Item**

### **NATIONAL BREASTFEEDING MONTH PROCLAMATION**

**August 20, 2024**

**Page 2 of 2**

its benefits. The U.S. government, through various departments and agencies, like the U.S. Department of Health and Human Services and the Centers for Disease Control and Prevention, actively support breastfeeding initiatives. These organizations, along with other advocacy groups and healthcare professionals, play a crucial role in promoting National Breastfeeding Month.

Breastfeeding offers numerous benefits for both infants and mothers. It provides complete and balanced nutrition for healthy growth and development in infants. Breast milk contains antibodies and immune-boosting components that protect infants against various infections, illnesses, and allergies. It is easily digested, reducing the likelihood of digestive problems, and establishing a healthy gut microbiome. Breastfeeding also provides essential fatty acids for brain development and has been associated with improved cognitive development and higher intelligence quotient (IQ) scores in children. Breastfed infants have a lower risk of developing chronic conditions later in life, including obesity, Type 2 diabetes, asthma, allergies, certain cancers, and cardiovascular diseases.

Mothers benefit from breastfeeding through the release of oxytocin, a hormone that aids postpartum recovery by reducing postpartum bleeding and helping the uterus heal. Breastfeeding promotes physical closeness between the infant and mother, fostering bonding and enhancing maternal-infant attachment. It also contributes to positive emotional well-being for both. Breastfeeding is associated with a lower risk of postpartum depression and anxiety. Additionally, breastfeeding is linked to a decreased risk of certain health conditions in mothers, such as breast and ovarian cancers, weight loss, Type 2 diabetes, and cardiovascular diseases.

This year's theme is "Nourish, Sustain, Thrive", highlighting the struggles of the country's diverse populations and why protecting, promoting, and supporting lactation is important to safeguard the future generations of the human population, while honoring those of the past. Indigenous Milk Medicine Week was established in 2019 and set out to uplift and encourage the diversity of Native breastfeeding. Asian American, Native Hawaiian, and Pacific Islander Week was created in 2021 and designed to decrease inequities and normalize breastfeeding among the Asian and Pacific Islander communities. Black Breastfeeding Week, created in 2014, combats high black infant mortality rates, the lack of diversity in the lactation field, and highlights the efforts to support breastfeeding among Black families.

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 PROCLAIMING  
THE MONTH OF AUGUST 2024 AS  
NATIONAL BREASTFEEDING MONTH

---

RESOLUTION NO. \_\_\_\_\_

WHEREAS, the month of August has been deemed National Breastfeeding Month; and,

WHEREAS, breastfeeding benefits both mothers and infants, and is a proven foundational strategy for lifelong health and wellness; and,

WHEREAS, major medical authorities, including the American Academy of Pediatrics and World Health Organization, recommend exclusive breastfeeding for the first six months of life, with continued breastfeeding while introducing complementary foods for two years or as long as mutually desired by the mother and child; and,

WHEREAS, in 2011, the United States Surgeon General issued a “Call to Action to Support Breastfeeding,” which identifies barriers to optimal breastfeeding in various areas such as health care practices, employment accommodations, cultural beliefs, lack of research, public health infrastructure, and societal attitudes; and recommendations on how families, communities, employers, and health care professionals can work together to eliminate these barriers, improve breastfeeding rates, and increase support for breastfeeding; and,

WHEREAS, the County of Kings further recognizes the unique health, economic, and societal benefits that breastfeeding provides to mothers, children, families, and the community as a whole and encourages all stakeholders to work together to support breastfeeding and ensure that barriers to initiation and continuation of breastfeeding be removed; and,

WHEREAS, the Kings County Department of Public Health commends the parental health and breastfeeding advocates throughout our county working to build individual, family, and community support for breastfeeding, and joins in celebrating and promoting awareness of the benefits of breastfeeding for all babies and parents, now and in the future.

NOW, THEREFORE, BE IT PROCLAIMED, by the Board of Supervisors of the County of Kings, State of California, that the month of August 2024 is recognized as National Breastfeeding Month in Kings County and urges all citizens to observe this month by acknowledging the importance of breastfeeding.

The foregoing proclamation was adopted upon motion by Supervisor \_\_\_\_\_,  
seconded by Supervisor \_\_\_\_\_ at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 2024, by the following vote:

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

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Doug Verboon, Chairman  
Board of Supervisors, County of Kings

IN WITNESS WHEREOF, I have set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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Catherine Venturella, Clerk  
Board of Supervisors, County of Kings



# COUNTY OF KINGS BOARD OF SUPERVISORS

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

## AGENDA ITEM August 20, 2024

**SUBMITTED BY:** Public Works Department – Dominic Tyburski/Mitchel Cabrera  
**SUBJECT:** OPERATION AND MAINTENANCE AGREEMENT WITH ENGIE SERVICES

**SUMMARY:**

**Overview:**

On September 27, 2011, the Board passed Resolution No. 11-057 entering into an energy services contract and related maintenance agreement with Chevron Energy Solutions (now ENGIE Services U.S.). The project included solar shade structures at the Kings County Government Center and the Hanford Library. ENGIE Services U.S. has requested that a standalone agreement for operations and maintenance services be put in place to continue to provide the services to the County after the conclusion of the original term, which ended on September 1, 2023.

**Recommendation:**

**Approve the agreement with the ENGIE Services U.S. for operations and maintenance of solar and electrical facilities retroactively effective from September 1, 2023 through August 31, 2028.**

**Fiscal Impact:**

The total cost of the agreement is \$101,667 for the five-year term. The cost is based on an annual fee with a 3% increase each additional year thereafter. The cost for the first year is \$19,149. This amount is included in the Fiscal Year 2024-25 Recommended Budget and is charged back to departments on campus in Public Works' utility rates.

**BACKGROUND:**

ENGIE Services U.S. (formally Opterra Energy Services and Chevron Energy Solutions) is the largest independent electricity producer in the world, and the third largest retail electricity supplier in the United States. With more than 150,000 employees worldwide, ENGIE Services U.S. generates over \$80 billion in annual revenue. The County has completed four successful projects at the Government Center with these firms

(Cont'd)

**BOARD ACTION:**

APPROVED AS RECOMMENDED: \_\_\_\_\_ OTHER: \_\_\_\_\_

I hereby certify that the above order was passed and adopted  
on \_\_\_\_\_, 2024.

CATHERINE VENTURELLA, Clerk of the Board

By \_\_\_\_\_, Deputy.

## **Agenda Item**

### **OPERATION AND MAINTENANCE AGREEMENT WITH ENGIE SERVICES**

**August 20, 2024**

**Page 2 of 2**

including a \$3 million microturbine co-generation project in 2005, an \$8.4 million central heating and cooling plant upgrade in 2009, a \$4.1 million solar project in 2011, and a \$16 million solar project in 2020. The services covered by the agreement include inspections, testing, monitoring of both system performance and reporting, and cleaning of the solar facilities located at the Government Center and Hanford Library.

A sole source justification has been approved by the purchasing manager for this agreement. The original equipment was procured and installed through Engie Services U.S. The benefits of having the same company provide the operation and maintenance to equipment installed include experience, technical knowledge and familiarity with issues that may arise through the inspection, monitoring, and testing of equipment.

The original agreement with Chevron Energy Solutions (ENGIE) terminated on September 1, 2023, and since then Engie has been providing the operations and maintenance on the solar equipment on an as-needed basis by the County. The retroactive agreement aspect is for Engie to be able to bill the County for work they have done that has not yet been invoiced to the County.

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



DIR Project Registration # \_\_\_\_\_  
 ENGIE Services Project #: CN-001391  
 ENGIE Services Contract # R 3629

## OPERATION & MAINTENANCE AGREEMENT

This **OPERATION & MAINTENANCE AGREEMENT** (this "Agreement") is made and entered into as of September 1, 2023 by and between **ENGIE Services U.S. Inc.**, a Delaware corporation, with California State Contractor's License Number 995037 ("ENGIE Services U.S."), and **County of Kings** ("Customer" and together with ENGIE Services U.S. the "Parties" and each of Customer and ENGIE Services U.S. a "Party").

### RECITALS

WHEREAS, ENGIE Services U.S. is a full-service energy services company with the technical capabilities to provide services to Customer including, but not limited to, maintenance of Generating Facilities (as defined below); and

WHEREAS, ENGIE Services U.S. has agreed to maintain the Generating Facilities on the terms and subject to the conditions of this Agreement;

NOW, THEREFORE, Customer and ENGIE Services U.S. hereby agree as follows:

### ARTICLE 1. DEFINITIONS

For purposes of this Agreement and its Attachments, defined terms will have the following meanings:

**"Abnormally Severe Weather Conditions"** means typhoons, hurricanes, tornadoes, lightning storms and other climatic and weather conditions that are abnormally severe for the period of time when, and the area where, such storms or conditions occur, in each case occurring at a property, the access roads to a property, or any other location where O&M Services are then being performed. For the avoidance of doubt, the term "Abnormally Severe Weather Conditions" specifically includes rain, snow or sleet in excess of one hundred fifty percent (150%) of the median level over the preceding ten (10) year period for the local geographic area and time of year in which such rain, snow or sleet accumulates.

**"Agreement"** is defined in the Preamble, and includes all Attachments hereto (all of which are incorporated herein), as well as all amendments, restatements, supplements and other modifications hereto.

**"Annual O&M Fee"** means a fee payable annually in advance by Customer to ENGIE Services U.S., in consideration of the provision of O&M Services. The Annual O&M Fee for the first O&M Period will be as stated in the below payment Schedule. The Annual O&M Fee will be increased annually thereafter at the rate of three percent (3%) per annum, each increase to be effective on the first day of the corresponding O&M Period.

Payment Schedule:

Year	PV O&M Services	Monitoring Services	Total
1	\$16,719	\$2,430	\$19,149
2	\$17,221	\$2,503	\$19,724

**Operation & Maintenance Agreement  
County of Kings and ENGIE Services U.S.**

3	\$17,738	\$2,578	\$20,316
4	\$18,270	\$2,655	\$20,925
5	\$18,818	\$2,735	\$21,553

**“Applicable Law”** means any statute, law, treaty, building code, rule, regulation, ordinance, code, enactment, injunction, writ, order, decision, authorization, judgment, decree, protocol, procedure or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, as may be in effect at the time the O&M Services are undertaken.

**“Applicable Permits”** means all permits, approvals, inspections and certifications required to be issued by any Governmental Authority in connection with the O&M Services.

**“Arbitration Rules”** is defined in ARTICLE 9.

**“Customer”** is defined in the Preamble.

**“Dispute”** is defined in ARTICLE 9.

**“ENGIE Services U.S.”** is defined in the Preamble.

**“Force Majeure”** means acts or events that are beyond the reasonable control of the affected Party and not caused by the negligence or fault of the Party affecting, including but not limited to any of the following: (i) acts of God; (ii) acts of the public enemy or terrorist acts; (iii) relocation or construction of transmission facilities or the shutdown of such facilities for the purpose of necessary repairs; (iv) work by local utility; (v) flood, earthquake, tornado, storm, fire, explosions, lightning, landslide or similar cataclysmic occurrence; (vi) sabotage, vandalism, riots or civil disobedience; (vii) labor disputes or strikes; (viii) labor or material shortages, delay in manufacturing and deliveries of equipment and supply chain disruptions (if such delay is caused by an event that would otherwise constitute Force Majeure); (ix) restraint by court order or public authority (whether valid or invalid); (x) inability to obtain or keep in force any Applicable Permit; (xi) epidemic or pandemic; (xii) Abnormally Severe Weather Conditions; (xiii) an annual level of direct beam solar resource availability that is less than or equal to 90% of historical averages as measured by long-term weather data (minimum 5 years) collected at the applicable Project Location and/or other reliable calibrated and appropriate weather station representative of such Project Location; (xiv) requirement by utility that any Generating Facility discontinue operation for any reason; (xv) appropriation or diversion of electricity by sale or order of any Governmental Authority; (xvi) any other action by any Governmental Authority which prevents or inhibits the Parties from carrying out their respective obligations under this Agreement (including an unstayed order of a court or administrative agency having the effect of subjecting the sales of energy output to federal or state regulation of prices and/or services); or (xvii) any utility power outage at any Project Location.

**“Generating Facility”** means each photovoltaic, solar powered generating facility located at a Project Location, and includes all associated photovoltaic panels, mounting assemblies, inverters, converters, metering, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wires and other equipment that may be necessary to connect such solar power plant to the applicable utility meter.

**“Governmental Authority”** means any federal, state, regional, town, county, city, municipal or local government agency, department or regulatory body having jurisdiction under Applicable Law over the matter in question.

**“Hazardous Substances”** means (i) any hazardous, toxic, or dangerous wastes, substances, chemicals, constituents, contaminants, pollutants, and materials and any other carcinogenic,

liquids, corrosive, ignitable, radioactive, reactive, toxic, or otherwise hazardous substances or mixtures (whether solids, liquids, gases) now or at any time subject to regulation, control, remediation, or otherwise addressed under Applicable Laws; (ii) any "hazardous substance" as defined by the Resource, Conservation and Recovery Act of 1976 (42 U.S.C. §6901 *et seq.*), as amended, and regulations promulgated thereunder; (iii) any "hazardous, toxic or dangerous waste, substance or material" specifically defined as such in 42 U.S.C. §9601 *et seq.*, as amended and regulations promulgated thereunder; and (iv) any hazardous, toxic or dangerous waste, substance, or material as defined in any so-called "superfund" or "superlien" law.

**"Interest"** means interest calculated at the lesser of (i) the prime rate plus two percent (2%) or (ii) the maximum rate permitted by Applicable Law. The "prime rate" will be "Prime Rate" of interest per annum for domestic banks as published in The Wall Street Journal in the "Money Rates" section.

**"O&M Commencement Date"** means the first day of the month immediately following the later of (i) the full execution of this Agreement, and (ii) ENGIE Services U.S.'s receipt of the Annual O&M Fee for the first O&M Period.

**"O&M Period"** means each one-year period following the O&M Commencement Date.

**"O&M Services"** means the maintenance services to be performed by ENGIE Services U.S. in accordance with the terms and subject to the conditions of this Agreement.

**"Party"** and **"Parties"** are defined in the Preamble.

**"Project Location"** means that area or areas where the Generating Facilities are installed, as set forth in Attachment A.

**"Term"** is defined in Section 2.02.

## **ARTICLE 2. ANNUAL O&M FEE; TERM**

Section 2.01 The Annual O&M Fee for the first O&M Period will be invoiced by ENGIE Services U.S. to Customer in a lump sum upon the execution of this Agreement. All subsequent Annual O&M Fees will be invoiced by ENGIE Services U.S. on the first day of the corresponding O&M Period. The Customer, or its designee, will pay ENGIE Services U.S. the Annual O&M Fee, without any retention amount withheld, within thirty (30) calendar days after its receipt of the corresponding invoice. Unless Customer gives ENGIE Services U.S. prior written notice of its intent to terminate the O&M Services, any failure to timely pay the Annual O&M Fee in accordance with this Agreement will be a material default by Customer hereunder, and ENGIE Services U.S., in addition to any other legal, contractual and equitable remedies available to it, will have no obligation thereafter to provide O&M Services. Any amount not paid when due will, from and after the due date, bear Interest. Accrued and unpaid Interest on past due amounts (including Interest on past due Interest) will be due and payable upon demand. The Annual O&M Fee is not refundable for any reason.

Section 2.02 So long as Customer pays to ENGIE Services U.S. the Annual O&M Fee, ENGIE Services U.S. will provide the O&M Services with respect to the Generating Facilities at the Project Locations, all as described in this Agreement, for up to 5 years (the "Term") from the O&M Commencement Date on an annualized basis.

Section 2.03 If (i) Customer notifies ENGIE Services U.S. in writing of its intent to terminate the O&M Services, or (ii) following notice and an opportunity to cure of no less than ten (10) business days, Customer is in default of any of its obligations under this Agreement (including its obligation to pay the Annual O&M Fee), the obligation of ENGIE Services U.S. to provide the O&M Services will also be terminated.

**ARTICLE 3. MAINTENANCE SERVICES**

Section 3.01 ENGIE Services U.S. will provide the following O&M Services during the term:

- (a) Inspection: Inspect PV modules, combiner boxes, inverters, isolation transformers, and PV service roof penetrations and support structure on an annual basis.
- (b) Testing: Perform voltage testing, amperage testing, and infrared scans of inverters, combiner boxes, disconnects and switchgear on a semi-annual basis.
- (c) Monitoring: Monitor system performance on a daily basis.
  - (i) System performance is evaluated by comparing actual production data and actual local weather data to the production values predicted by PVsyst modeling software. These evaluations are performed monthly; greater-than-predicted degradations may indicate the need for further inspection and possible recommendation for panel washing.
  - (ii) Reporting: A web portal will be provided for users to view and download solar production data. A monthly email report showing production for the month, production year to date, and monthly percent of expected production.
- (d) Cleaning:
  - (i) Remove dust, dirt, and debris from outside cabinets of combiner boxes, inverters, transformers, and disconnect switches on an annual basis.
  - (ii) Wash PV modules and remove accumulated dust and debris on an annual basis.

Section 3.02 Repair O&M Services. If a Generating Facility is damaged and requires safe-off, repair, demolition and/or reconstruction, or otherwise requires repair outside of warranty, Customer must contact the ENGIE Services U.S. PV Operations & Maintenance Manager. In the event of damage, any component of the Generating Facility installed by ENGIE Services U.S. can be repaired or reconstructed by ENGIE Services U.S. at Customer's request. Customer must submit a request for quotation to the ENGIE Services U.S. PV Operations & Maintenance Manager. ENGIE Services U.S. will inspect the damage and provide a written quotation and complete scope of work to Customer to restore the Generating Facility to normal operational condition. Before proceeding with repairs, ENGIE Services U.S. and Customer must execute a work order, on ENGIE Services U.S.'s form, for the agreed scope of work and quotation amount. Repair work is done on a time and materials basis. Standard Business Hours are M-F, 7am to 5pm. Non-business Hours & Saturdays Equals 1.5x Rates. Sundays & Holidays Equals 2.0x Rates.

Labor Category		Straight Time
Hourly Rate – PV Electrical Journeyman Technician <sup>1</sup>	\$/hr.	County Labor Rate
Hourly Rate – PV Electrical Apprentice Technician <sup>1</sup>	\$/hr.	County Labor Rate
Hourly Rate – Engineering <sup>2</sup>	\$/hr.	\$ 170.00
Hourly Rate – Administrative <sup>2</sup>	\$/hr.	\$ 65.00



**Operation & Maintenance Agreement  
County of Kings and ENGIE Services U.S.**

Mileage	\$	IRS Rate
Material mark-up %	%	15.00
Lift rental fee	\$	Current Market Price

<sup>1</sup>Trade Hourly rate will be adjusted based on the current year of the local prevailing wage determination plus Burden (employer payments including health/welfare, pension, training and other benefits required to be paid to employees as published by the DIR), requirement for either travel or subsistence and lodging actually and reasonably incurred, and markup as set forth in the table above for services being requested.

<sup>2</sup>Escalated according to an inflation rate to the year in which service will occur

Section 3.03 Upon completion of any maintenance or repair work, ENGIE Services U.S. will update service logs detailing the work performed, location and any notes relevant to safe and efficient operations. These service logs will be compiled and submitted to Customer on a semi-annual basis.

**ARTICLE 4. O&M SERVICES AND EQUIPMENT TO BE COVERED BY CUSTOMER**

Section 4.01 ENGIE Services U.S.'s obligations under this Agreement are expressly conditioned upon Customer's payment of the Annual O&M Fee and providing and being responsible for the following, without cost to ENGIE Services U.S.:

- (i) Timely reporting of, and permitting timely repair of, Generating Facilities damaged by District Persons or third parties, including damage resulting
- (ii) Making the Generating Facilities described herein available to ENGIE Services U.S. as of the O&M Commencement Date.
- (iii) Operating and maintaining security systems associated with the Generating Facilities.
- (iv) Maintaining all landscaping in and around Generating Facilities including tree trimming.
- (v) Allowing ENGIE Services U.S. and its personnel access as necessary to the Generating Facilities, and any related areas that may be reasonably necessary for performance of the O&M Services, including reasonable work, parking, and equipment staging areas.
- (vi) Allowing ENGIE Services U.S. and its personnel to access electrical power and other utilities then existing at the Generating Facilities as necessary for ENGIE Services U.S. to satisfy its obligations under this Agreement.
- (vii) Remediating, pursuant to Applicable Law, any known Hazardous Substances encountered by ENGIE Services U.S. during the performance of the O&M Services which Hazardous Substances were not deposited by ENGIE Services U.S., including any backfill with clean soil as may be reasonably required.
- (viii) Insuring the Generating Facilities against loss due to acts of God and the public enemy; flood, earthquake, tornado, storm, fire; civil disobedience, sabotage, and vandalism.

Section 4.02 ENGIE Services U.S. will have no obligation to provide the O&M Services to the extent such provision of O&M Services is materially adversely affected by Customer's failure to satisfy the conditions set forth in this Agreement.

#### **ARTICLE 5. SUBCONTRACTORS**

Section 5.01 Authority to Subcontract. ENGIE Services U.S. may delegate its duties and performance under this Agreement, and has the right to enter into agreements with any subcontractors and other service or material providers as ENGIE Services U.S. may select in its discretion to perform the O&M Services. ENGIE Services U.S. will not be required to enter into any subcontracts with parties whom ENGIE Services U.S. has not selected or subcontractors whom ENGIE Services U.S. has objection to using. Provisions of this Agreement relating to indemnification, defense, insurance, payment of prevailing wages, and compliance with applicable law (including nondiscrimination laws) shall be passed along to any subcontractor. Subcontractors shall possess all licenses, skills, knowledge, and experience required to perform the tasks that they are contracted to do, and ENGIE Services U.S. shall not subcontract obligations hereunder to avoid obligations under any warranty stated herein, but shall remain liable for such obligations even if any part of the work is performed by a subcontractor.

Section 5.02 Prevailing Wages. This Agreement is subject to the payment of prevailing wages for all on-site work. To the extent required by California Labor Code §1771 or other Applicable Law, all employees of ENGIE Services U.S. and ENGIE Services U.S.'s subcontractors performing O&M Services at the Project Location will be paid the per diem prevailing wages for the employee's job classification in the locality in which the O&M Services is performed. In accordance with California Labor Code §§1773 and 1773.2, Customer will obtain from the Director of Industrial Relations the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work, in the locality in which the O&M Services is to be performed, for each craft, classification or type of worker needed to execute the O&M Services at the Project Location, and will cause copies of such determinations to be kept on file at its principal office and posted at each Project Location. Customer will promptly notify ENGIE Services U.S. of any changes to any such prevailing wage determination.

#### **ARTICLE 6. WARRANTY**

EXCEPT FOR THE WARRANTIES PROVIDED IN THIS ARTICLE 6, ENGIE SERVICES U.S. MAKES NO WARRANTIES IN CONNECTION WITH THE SERVICES PROVIDED UNDER THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED IN LAW, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTIES AGAINST INTELLECTUAL PROPERTY INFRINGEMENT. CUSTOMER WILL HAVE NO REMEDIES AGAINST EITHER ENGIE SERVICES U.S. OR ANY ENGIE SERVICES U.S. SUBCONTRACTOR OR VENDOR FOR ANY DEFECTIVE MATERIALS OR EQUIPMENT INSTALLED, EXCEPT FOR THE REPAIR OR REPLACEMENT OF SUCH MATERIALS OR EQUIPMENT IN ACCORDANCE WITH THE WARRANTIES INDICATED BELOW. SPECIFICALLY, NEITHER ENGIE SERVICES U.S., NOR ENGIE SERVICES U.S.'S SUBCONTRACTORS OR VENDORS, WILL BE LIABLE TO CUSTOMER FOR LOSS OF PROFITS OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY.

Section 6.01 ENGIE Services U.S. warrants to Customer that material and equipment furnished under this Agreement will be of good quality and new, unless otherwise expressly required or permitted by this Agreement. ENGIE Services U.S. further warrants that its workmanship provided hereunder, including its subcontractors' workmanship, will be free of material defects for a period of one (1) year from the date of installation ("ENGIE Services U.S. Warranty").

Section 6.02 Equipment and material warranties that exceed the ENGIE Services U.S. Warranty period will be provided directly by the equipment and/or material manufacturers and such warranties will be assigned directly to Customer, after the one (1) year period. During the ENGIE Services U.S. Warranty period, ENGIE Services U.S. will be Customer's agent in working with the equipment and material manufacturers in resolving any equipment or material warranty issues. If any material defects are discovered within the ENGIE Services U.S. Warranty period, ENGIE Services U.S., or ENGIE Services U.S.'s subcontractors, will correct its defects, and/or ENGIE Services U.S. will work with the equipment or material manufacturer as Customer's agent to facilitate the manufacturer's correction of the equipment or material defect. Such warranty services will be performed in a timely manner and at the reasonable convenience of Customer. If a warranty issue arises on any equipment or material installed after the ENGIE Services U.S. Warranty period, and the equipment or material has a warranty period that exceeds one (1) year, Customer will contact the manufacturer directly to resolve such warranty issues and Customer acknowledges that the manufacturer will have sole responsibility for such issues.

Section 6.03 The warranties in this ARTICLE 6 expressly exclude any remedy for damage or defect caused by improper or inadequate maintenance of the installed equipment by service providers other than ENGIE Services U.S. or its subcontractors, , abuse, modifications or repairs not performed by an authorized ENGIE Services U.S. subcontractor, improper use or operation, or normal wear and tear under normal usage. ENGIE Services U.S. will not be responsible for the cost of correcting a breach of warranty or defect to the extent that the manufacturer of the equipment that is the subject of a warranty hereunder does not honor its equipment warranty as a result of its termination of operations, insolvency, liquidation, bankruptcy or similar occurrence. Unless otherwise specified, all warranties hereunder, including without limitation those for defects, whether latent or patent, in design, engineering, or construction, will terminate one (1) year from the date of installation; and thereafter, ENGIE Services U.S. will have no liability for breach of any warranty or for any latent or patent defect of any kind pursuant to California Code of Civil Procedure §§337.15 and 338.

Section 6.04 Notwithstanding anything in this Agreement to the contrary, to the extent of ENGIE Services U.S.'s own fault or that of its subcontractors, ENGIE Services U.S. shall indemnify, defend, and hold harmless Customer and its officers, employees, agents, and assigns ("indemnitees") from and against any and all claims, causes of action, damages, liabilities, liens, penalties, interest, or costs, including attorneys' fees and costs (collectively, "claims"), arising from death, bodily injury, or real or personal property damage of or to any third party in connection with ENGIE Services U.S.'s (or any of its subcontractor's) performance of work under this Agreement.

## **ARTICLE 7. LIMITATION OF LIABILITY; INSURANCE**

Section 7.01 Waiver of Consequential Damages and Limitation of Liability. Subject to Section 6.04 above, the liability of a defaulting Party will be limited to direct, actual damages. Neither Party will be liable to the other Party for any special, indirect, incidental or consequential damages whatsoever, whether in contract, tort (including negligence) or strict liability, including, but not limited to, operational losses in the performance of business such as lost profits or revenues or any increase in operating expense.

Section 7.02 ENGIE Services U.S. Insurance. ENGIE Services U.S. will maintain, or cause to be maintained, for the duration of this Agreement, the insurance coverage outlined in (a) through (f) below, and all such other insurance as required by Applicable Law. Evidence of coverage will be provided to Customer via an insurance certificate.

(a) Workers' Compensation Insurance as required by law.

(b) Commercial General Liability insurance with limits of:

\* \$2,000,000 each occurrence for Bodily Injury and Property Damage

- \* \$4,000,000 General Aggregate - other than Products/Completed Operations
- \* \$2,000,000 Products/Completed Operations Aggregate
- \* \$2,000,000 Personal & Advertising Injury
- \* \$ 100,000 Damage to premises rented to ENGIE Services U.S.

Coverage to be written on an occurrence form. Coverage to be at least as broad as ISO form CG 0001 (04/13) or its equivalent forms, without endorsements that limit the policy terms with respect to: (1) provisions for severability of interest or (2) explosion, collapse, underground hazard.

- (c) Auto Liability insurance for owned, hired and non-owned vehicles with limits of \$1,000,000 per accident. Coverage to be written on an occurrence form.
- (d) Professional Liability insurance with limits of:
- \* \$1,000,000 per occurrence
  - \* \$1,000,000 aggregate

Coverage to be written on a claims-made form.

- (e) Umbrella/Excess Liability Insurance. Limits as follows:
- \* \$1,000,000 each occurrence
  - \* \$5,000,000 aggregate

Coverage terms and limits to apply excess of the per occurrence and/or aggregate limits provided for Commercial General Liability and Professional Liability written on a claims made form. Coverage terms and limits also to apply in excess of those required for Employers Liability and Auto Liability written on an occurrence form.

- (f) Policy Endorsements.

- \* All insurance required under this Agreement shall be placed with an admitted insurer with an A.M. Best Rating of at least A:VII.

The insurance provided for Workers' Compensation and Employers' Liability above will contain waivers of subrogation rights against Customer.

- \* The insurance provided for Commercial General Liability and Auto Liability above will:

- (i) include Customer and its officers, employees, agents, successors, and assigns as an additional insured with respect to O&M Services performed under this Agreement,
- (ii) provide that the insurance is primary coverage with respect to all insureds; and
- (iii) Be endorsed to provide Customer with notice of cancellation.

#### **ARTICLE 8. CONDITIONS BEYOND CONTROL OF THE PARTIES**

If any Party is delayed in, or prevented from, performing or carrying out its obligations under this Agreement by reason of any Force Majeure, such circumstance will not constitute a default, and such Party will be excused from performance hereunder and will not be liable to the other Party for or on account of any loss, damage, injury or expense resulting from, or arising out of, such delay or prevention; provided, however, that the delayed party shall provide written notice to the other party of the Force Majeure within ten (10) calendar days after that party knew (or in the exercise of reasonable diligence should have known) of the circumstances giving rise to the Force majeure event. Notwithstanding the foregoing, no Party will be excused from any payment obligations under this Agreement as a result of any Force Majeure.

**ARTICLE 9. DISPUTE RESOLUTION; APPLICABLE LAW; VENUE; SEVERABILITY**

If a dispute arises out of or relates to this Agreement, or the services contemplated by this Agreement (a “Dispute”), either Party may initiate the dispute resolution process set forth in this ARTICLE 9 by giving notice to the other Party. Senior executives for the Parties will meet, within thirty (30) calendar days after notice of the Dispute, in an attempt to resolve the Dispute and any other identified disputes or any unresolved issues that may lead to a dispute. If the senior executives of are unable to resolve a Dispute or if a senior management conference is not held within the time provided herein, either Party may submit the Dispute to mediation.

If the Dispute is not settled by senior management conference, the Parties will endeavor to settle the Dispute by mediation under the Commercial Mediation Procedures of the American Arbitration Association or other agreed upon procedures. Mediation is a condition precedent to the institution of legal or equitable proceedings by either Party. Once one Party files a request for mediation with the other Party and with the American Arbitration Association (or other agreed upon mediator), the Parties agree to conclude the mediation within sixty (60) calendar days after filing the request. Either Party may terminate the mediation at any time after the first session, but the decision to terminate must be delivered in person by the Party’s representative to the other Party’s representative and the mediator.

This Agreement is governed by and must be interpreted under the laws of the State of California, without regard to the jurisdiction’s choice of law rules.

If any term of this Agreement is declared by a court to be illegal, invalid or unenforceable, the legality, validity and enforceability of the other terms of this Agreement will not be affected or impaired thereby, and the rights and obligations of the Parties will be enforced as if the illegal, invalid or unenforceable term were revised to the minimum extent necessary to effectuate the original intent of the parties as closely as possible.

Nothing in this Article 9 shall be construed to prevent either party from requesting from any court of competent jurisdiction (wherein venue is proper according to applicable law), any provisional remedy that may be necessary to protect any rights or property from irreparable harm pending the determination of the merits of any controversy. Any applicable statute of limitations shall toll during any period that the parties are engaged in the alternative dispute resolution procedures set forth in this Article. The cost of mediation pursuant to this Article shall be shared equally between the parties

**ARTICLE 10. NOTICE**

Any notice required or permitted hereunder will be deemed sufficient if given in writing and delivered personally or sent by first class mail, return receipt requested, postage prepaid, or delivered to a nationally recognized express mail service, charges prepaid, receipt obtained, to the address shown below or to such other persons or addresses as are specified by similar notice. Notice by electronic means shall also be deemed given if receipt is acknowledged in writing.

TO ENGIE SERVICES U.S.:

ENGIE Services U.S.  
500 12<sup>th</sup> St., Suite 300  
Oakland CA, 94607



**ARTICLE 15. HEADINGS**

Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle will modify or be used to interpret the text of any section.

**ARTICLE 16. COUNTERPARTS; INTEGRATION**

This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which will constitute an original, but all of which when taken together will constitute a single contract. This Agreement constitutes the entire agreement among the Parties relating to the subject matter hereof and supersedes any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement may be executed electronically, and delivery of an executed counterpart of a signature page of this Agreement by email or fax will be effective as delivery of a manually executed counterpart of this Agreement.

*[the Parties' signatures appear on the following page]*

Operation & Maintenance Agreement  
County of Kings and ENGIE Services U.S.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties hereto subscribe their names to this Agreement by their duly authorized officers on the date first above written.

ENGIE SERVICES U.S.:

<sup>DS</sup>  
*CM*

ENGIE Services U.S. Inc.

CUSTOMER:

County of Kings

By: <sup>DocuSigned by:</sup>  
*Courtney Jenkins*  
C333BEFB0042485.....

By: \_\_\_\_\_  
—

Name: Courtney Jenkins

Name: Doug Verboon

Title: Vice President and General Manager

Title: Chairperson, Board of Supervisors

Attest

\_\_\_\_\_  
Clerk of the Board

Approved as to Insurance

*[Signature]* 12/17/2023  
\_\_\_\_\_  
Risk Manager

Approved as to Form

*Diane Freeman*  
\_\_\_\_\_  
County Counsel



**ATTACHMENT A**  
**PROJECT LOCATIONS**

Site	Address	City	State	Zip
City of Hanford Library	401 N Douty St	Hanford	CA	93230
Government Center	1400 W Lacey Blvd	Hanford	CA	93230





# COUNTY OF KINGS BOARD OF SUPERVISORS

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

## AGENDA ITEM August 20, 2024

**SUBMITTED BY:** Administration – Kyria Martinez/Tomas Barajas

**SUBJECT:** RESCISSION AGREEMENT WITH KINGS COMMUNITY ACTION ORGANIZATION FOR PASS THROUGH FUNDING

**SUMMARY:**

**Overview:**

On February 28, 2023, the County requested funding from the State for Kings Community Action Organization’s (KCAO) food bank and housing project. The State notified the County that the food bank and housing project was awarded \$1,000,000. On January 30, 2024, the Board approved a pass-through funding agreement with KCAO for the food bank and housing project in the amount of \$1,000,000. The County originally received direction from the State that funding would be provided directly to the County as a pass-through to KCAO. After the agreement on January 30, 2024 was approved by the Board, staff were notified by the State that funds were sent directly to KCAO, therefore the agreement approved by the Board is no longer valid. The action requested is to rescind the approval of the pass-through funding agreement the County entered into on January 30, 2024, and rescind all rights and duties of both parties in that agreement.

**Recommendation:**

**Approve the recission agreement with Kings Community Action Organization regarding pass-through funding for the food bank and housing project.**

**Fiscal Impact:**

There is no impact to the General Fund with this recission agreement. Under the initial pass-through agreement, the County was going to act as a pass-through entity to provide KCAO with the \$1,000,000 that the State approved for KCAO’s project. The funds have been sent directly to KCAO and subsequently were never deposited with the County.

(Cont’d)

BOARD ACTION:

APPROVED AS RECOMMENDED: \_\_\_ OTHER: \_\_\_

I hereby certify that the above order was passed and adopted  
on \_\_\_\_\_, 2024.

CATHERINE VENTURELLA, Clerk of the Board

By \_\_\_\_\_, Deputy.

## **Agenda Item**

### **RESCISSION AGREEMENT WITH KINGS COMMUNITY ACTION ORGANIZATION FOR PASS THROUGH FUNDING**

**August 20, 2024**

**Page 2 of 2**

#### **BACKGROUND:**

On February 28, 2023, the KCAO food bank and housing project was submitted to the Board for approval for federal earmark project funding and State Budget Earmark project funding. The County received notice from the California State Department of Social services that the County had been approved for \$1,000,000 for the KCAO food bank and housing project. The project aims to address community needs in food security and homelessness through the development of a multi-service campus providing emergency shelter, a food bank, and housing services. This funding was approved through the California Assembly Bill 102 Budget Act of 2023. Traditionally when state budget allocations are designated for a nonprofit agency, the California Department of Finance will officially distribute the funds through a local government entity, such as a city, county, or school district. The County was designated initially as the local government pass-through, which is why the County entered into a pass-through agreement with KCAO on January 30, 2024.

However, the funds were sent directly to KCAO, deeming the initial pass-through agreement unnecessary. The recommendation is for the Board to approve the rescission agreement, releasing the County from any obligation to provide KCAO the \$1,000,000 in funding for the food bank and housing project.

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

**AGREEMENT TO RESCIND  
AGREEMENT NO. 24-011**

This Rescission Agreement (“Rescission Agreement”) is made and entered into on \_\_\_\_\_, 2024, by and between the County of Kings, a political subdivision of the State of California, and Kings Community Action Organization, Incorporated, a private nonprofit organization (“Contractor”) (collectively the “Parties”).

RECITALS:

A. On January 30, 2024, the Parties made an agreement concerning pass-through funding (“Agreement No. 24-011”) attached to this Rescission Agreement as **Exhibit A**; and

B. The Parties now wish to rescind Agreement No. 24-011.

IN CONSIDERATION of the promises and acts contained here, the Parties agree as follows:


1. Agreement No. 24-011 is rescinded, and neither party shall have any further rights or duties under that agreement.
2. This Rescission Agreement is intended to comply with Civil Code Section 1689.
3. This Rescission Agreement, including its Recitals and Exhibits, are fully incorporated into and integral to this Rescission Agreement.
4. The Parties may execute this Rescission Agreement electronically and in two (2) or more counterparts that together constitute one (1) agreement.

IN WITNESS WHEREOF, the Parties executed this Rescission Agreement on the day and year first written above.

COUNTY OF KINGS

KINGS COMMUNITY ACTION  
ORGANIZATION, INCORPORATED

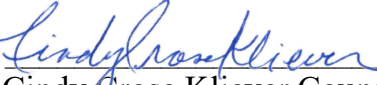
By: \_\_\_\_\_  
Doug Verboon, Chairman  
Kings County Board of Supervisors

DocuSigned by:  
  
By: \_\_\_\_\_  
Jeff Garner, Executive Director

ATTEST

APPROVED AS TO FORM  
Diane Freeman, County Counsel

By: \_\_\_\_\_  
Catherine Venturella,  
Clerk of the Board

By:  7/22/2024  
Cindy Crose Kliever Counsel  
Deputy County Counsel

## Rescission Agreement Exhibit A

### PASSTHROUGH FUNDING AGREEMENT

This Passthrough Funding Agreement (this "Agreement") is entered as of January 30, 2024 (the "Effective Date"), between the County of Kings, a political subdivision of the State of California (the "County") and Kings Community Action Organization, Incorporated, a California nonprofit public benefit corporation ("KCAO"), with respect to the following facts:

- A. According to recent community needs assessments, food insecurity continues to rank as a pressing need for individuals and families in Kings County, and the rate of homelessness has increased over the past decade.
- B. KCAO operates the only food bank in Kings County. KCAO has identified a high level need to develop and expand their food bank operations and serve the homeless population. KCAO proposes to meet this identified need by establishing a multi-service campus (the "Service Center") to administer a full range of coordinated programs designed to have a measurable impact on poverty while ensuring safety and basic human needs are met.
- C. In the Budget Act of 2023 (AB 102), the Legislature appropriated One Million Dollars (\$1,000,000) to be allocated by the State Department of Social Services ("DSS") to the County to pass-through to KCAO for the Service Center. This amount is hereinafter referred to as the "Appropriation" and represents a significant contribution to the overall anticipated cost of the Service Center, which may exceed Fifteen Million Dollars (\$15,000,000).
- D. Upon the County's execution of STD 204 (Payee Data Record), DSS intends to distribute the Appropriation to the County, and the County desires to pass the Appropriation through to KCAO subject to the terms and conditions of this Agreement.
- E. Final plans for the Service Center will be subject to available funding. Therefore, any environmental review of the proposed Service Center at this phase would be speculative. The California Environmental Quality Act ("CEQA") does not require an agency to speculate about the potential direct or indirect environmental effects of projects, and the County's action in passing through funds appropriated by the Legislature is not discretionary in nature. As such, in approving this Agreement, the County's Board of Supervisors finds that the County's entry into this Agreement and subsequent distribution of the Appropriation is exempt from review under CEQA, pursuant to CEQA Guidelines Sections 15061(b)(3) and 15268, and that none of the circumstances stated in CEQA Guidelines Section 15300.2 applies.

## Rescission Agreement Exhibit A

- F. In approving this Agreement, the County's Board of Supervisors also finds that the passing through of the Appropriation to KCAO is in the public interest.
- G. Labor Code Section 1720 defines a "public work" as "[c]onstruction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds." The use of the Appropriation to construct the Service Center therefore qualifies such construction (including certain predevelopment activities) as a "public work" within the meaning of Section 1720. The Labor Code requires that workers employed in the execution of a public work, as defined in Section 1720, be paid prevailing wages specified by the State Department of Industrial Relations.
- H. As used in this Agreement, the design, construction, operation, and maintenance of the Service Center are referred to collectively as the "Project". The protection of the County and its taxpayers from liability in connection with the Project is the paramount purpose of this Agreement (this Agreement's "Paramount Purpose").

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The foregoing recitals are true and correct and are incorporated herein by this reference.
2. As soon as practicable following the Effective Date, the County shall file a Notice of Exemption, pursuant to CEQA Guidelines Section 15062, in connection with the approval of this Agreement and the making of the Appropriation.
3. The County shall disburse the Appropriation to KCAO upon the occurrence of the following conditions precedent:
  - a. Thirty-five (35) days shall have passed following the filing of the Notice of Exemption referred to in Section 2, above;
  - b. DSS shall have disbursed the Appropriation to the County; and
  - c. Within the time set forth in Paragraph (a), above, no Claims (defined below) shall have been filed against the County in connection with this Agreement or the Project, unless the County waives this condition subject to agreement between the parties in consultation with DSS.
4. In consideration of the Appropriation, KCAO shall:

## Rescission Agreement Exhibit A

- a. Comply with all applicable federal, state, and local laws in connection with the Project, including Labor Code Section 1774 and applicable nondiscrimination laws.
  - b. Indemnify, hold harmless, and defend the County and its officers, employees, agents, and assigns (the "Indemnitees") from and against any and all claims, liabilities, damages, liens, judgments, penalties, fines, or costs (including attorneys' fees and costs) (collectively, "Claims") of any kind or nature whatsoever arising from the Project, excepting any Claims arising from an Indemnitee's own gross negligence or willful misconduct. Without limiting the generality of the foregoing, KCAO's obligations under this Paragraph include the indemnification and defense of the Indemnitees for any and all CEQA Claims arising in connection with the Project. The obligations of this Paragraph shall survive termination of this Agreement.
  - c. Obtain and maintain in place insurance policies of any kind or nature that it reasonably determines necessary to insure its ability to meet its indemnification and defense obligations including, at a minimum, by maintaining throughout the term of the Project a policy of Commercial General Liability insurance covering bodily injury, personal injury, and property damage with minimum limits of not less than Two Million Dollars (\$2,000,000) per occurrence and Five Million Dollars (\$5,000,000) annual aggregate. The Indemnitees shall be named as additional insureds on such policy using ISO form CG 20 26 or an alternate form that is at least as broad as form CG 20 26, and the policy shall be obtained from an admitted carrier rated by A.M. Best Co. as A:VII or higher. The construction contract for the Service Center shall require that the Indemnitees be named as additional insureds under any policies of insurance required under the construction contract. This Paragraph shall not be construed in any manner whatsoever to limit KCAO's obligations under Paragraph (b).
  - d. Refund the Appropriation to the County should the Service Center not be constructed or if County is under any legal obligation to refund the same to DSS or any other agency or entity, unless such obligation arises from the County's sole negligence or willful misconduct. In case the Service Center is not constructed, the Appropriation may be used by KCAO for another purpose only if approved by the County's Board of Supervisors and the Legislature.
5. The term of this Agreement shall continue throughout the term of the Project.



## Rescission Agreement Exhibit A

6. The parties hereto are independent contractors, and neither party is the agent or principal of the other.
7. There are no third-party intended beneficiaries of this Agreement.
8. This Agreement shall not be construed against its drafter, but instead any ambiguity shall be construed liberally in furtherance of this Agreement's Paramount Purpose.
9. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings relating to the same, whether written, oral, or implied.
10. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the Agreement shall continue in force to the extent necessary to effectuate the original intent of the parties as closely as possible.
11. Neither party shall assign this Agreement without the written consent of the other party, but this Agreement shall inure to the benefit of KCAO's successors and assigns without regard to any failure to obtain consent to an assignment. No waiver of this Agreement shall be valid unless in writing, notwithstanding the passage of time, and no waiver shall constitute a continuing waiver of the same or another provision. This Agreement may not be amended except in a writing signed by both parties.
12. This Agreement shall be construed according to California law, notwithstanding conflicts of law principles. Venue for this Agreement shall be proper in Kings County, notwithstanding Code of Civil Procedure Section 394 or any other law.
13. In case of any litigation arising from this Agreement, the prevailing party shall be entitled to recover attorneys' fees and costs pursuant to Civil Code Section 1717.
14. This Agreement may be executed in counterparts, each of which shall be deemed an original. This Agreement may be executed electronically, and an electronic copy or other facsimile shall be treated as an original. The signatories of this Agreement represent and warrant their authority to bind their respective parties hereto.

[Signatures on Following Page]

**Rescission Agreement Exhibit A**

IN WITNESS WHEREOF, this Agreement has been executed as of the Effective Date.

COUNTY

By: Doug Verboon 1-30-24  
Doug Verboon, Chairperson of  
the Board of Supervisors

KCAO

DocuSigned by:  
Jeff Garner  
Jeff Garner, CEO E755416...

ATTEST

By: Catherine Deckerelle  
Clerk of the Board

APPROVED AS TO FORM

By: Diane Freeman  
County Counsel



**PAYEE DATA RECORD**

**Rescission Agreement Exhibit A**

(Required when receiving payment from the State of California in lieu of IRS W-9 or W-7)  
 STD 204 (Rev. 03/2021)

**Section 1 – Payee Information**

**NAME** (This is required. Do not leave this line blank. Must match the payee's federal tax return)

County of Kings

**BUSINESS NAME, DBA NAME or DISREGARDED SINGLE MEMBER LLC NAME** (If different from above)

**MAILING ADDRESS** (number, street, apt. or suite no.) (See instructions on Page 2)

1400 West Lacey Blvd

**CITY, STATE, ZIP CODE**  
 Hanford CA 93230

**E-MAIL ADDRESS**  
 Wendy.Osikafo@co.kings.ca.us

**Section 2 – Entity Type**

Check one (1) box only that matches the entity type of the Payee listed in Section 1 above. (See instructions on page 2)

**SOLE PROPRIETOR / INDIVIDUAL**

**SINGLE MEMBER LLC** *Disregarded Entity owned by an individual*

**PARTNERSHIP**

**ESTATE OR TRUST**

**CORPORATION** (see instructions on page 2)

**MEDICAL** (e.g., dentistry, chiropractic, etc.)

**LEGAL** (e.g., attorney services)

**EXEMPT** (e.g., nonprofit)

**ALL OTHERS**

**Section 3 – Tax Identification Number**

Enter your Tax Identification Number (TIN) in the appropriate box. The TIN must match the name given in Section 1 of this form. Do not provide more than one (1) TIN. The TIN is a 9-digit number. **Note:** Payment will not be processed without a TIN.

- For **Individuals**, enter SSN.
- If you are a **Resident Alien**, and you do not have and are not eligible to get an SSN, enter your ITIN.
- Grantor Trusts (such as a Revocable Living Trust while the grantors are alive) may not have a separate FEIN. Those trusts must enter the individual grantor's SSN.
- For **Sole Proprietor or Single Member LLC (disregarded entity)**, in which the sole member is an individual, enter SSN (ITIN if applicable) or FEIN (FTB prefers SSN).
- For **Single Member LLC (disregarded entity)**, in which the sole member is a business entity, enter the owner entity's FEIN. Do not use the disregarded entity's FEIN.
- For all other entities including LLC that is taxed as a corporation or partnership, estates/trusts (with FEINs), enter the entity's FEIN.

**Social Security Number (SSN) or Individual Tax Identification Number (ITIN)**

\_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

OR

**Federal Employer Identification Number (FEIN)**

9 4 - 6 0 0 0 8 1 4

**Section 4 – Payee Residency Status** (See instructions)

**CALIFORNIA RESIDENT** – Qualified to do business in California or maintains a permanent place of business in California.

**CALIFORNIA NONRESIDENT** – Payments to nonresidents for services may be subject to state income tax withholding.

No services performed in California

Copy of Franchise Tax Board waiver of state withholding is attached.

**Section 5 – Certification**

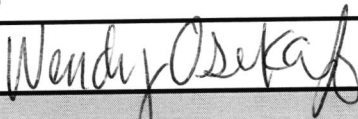
I hereby certify under penalty of perjury that the information provided on this document is true and correct. Should my residency status change, I will promptly notify the state agency below.

**NAME OF AUTHORIZED PAYEE REPRESENTATIVE**  
 Wendy Osikafo

**TITLE**  
 Human Services Director

**E-MAIL ADDRESS**  
 Wendy.Osikafo@co.kings.ca.us

**SIGNATURE**



**DATE**  
 3-5-24

**TELEPHONE** (include area code)  
 559-852-2200

**Section 6 – Paying State Agency**

Please return completed form to:

**STATE AGENCY/DEPARTMENT OFFICE**

**UNIT/SECTION**

**MAILING ADDRESS**

**FAX**

**TELEPHONE** (include area code)

**CITY**

**STATE**

**ZIP CODE**

**E-MAIL ADDRESS**

**Rescission Agreement Exhibit A**

**PAYEE DATA RECORD**

**Rescission Agreement Exhibit A**

(Required when receiving payment from the State of California in lieu of IRS W-9 or W-7)

STD 204 (Rev. 03/2021)

**GENERAL INSTRUCTIONS**

Type or print the information on the Payee Data Record, STD 204 form. Sign, date, and return to the state agency/department office address shown in Section 6. Prompt return of this fully completed form will prevent delays when processing payments.

Information provided in this form will be used by California state agencies/departments to prepare Information Returns (Form 1099).

**NOTE:** Completion of this form is optional for Government entities, i.e. federal, state, local, and special districts.

A completed Payee Data Record, STD 204 form, is required for all payees (non-governmental entities or individuals) entering into a transaction that may lead to a payment from the state. Each state agency requires a completed, signed, and dated STD 204 on file; therefore, it is possible for you to receive this form from multiple state agencies with which you do business.

Payees who do not wish to complete the STD 204 may elect not to do business with the state. If the payee does not complete the STD 204 and the required payee data is not otherwise provided, payment may be reduced for federal and state backup withholding. Amounts reported on Information Returns (Form 1099) are in accordance with the Internal Revenue Code (IRC) and the California Revenue and Taxation Code (R&TC).

**Section 1 – Payee Information**

**Name** – Enter the name that appears on the payee’s federal tax return. The name provided shall be the tax liable party and is subject to IRS TIN matching (when applicable).

- Sole Proprietor/Individual/Revocable Trusts – enter the name shown on your federal tax return.
- Single Member Limited Liability Companies (LLCs) that is disregarded as an entity separate from its owner for federal tax purposes - enter the name of the individual or business entity that is tax liable for the business in section 1. Enter the DBA, LLC name, trade, or fictitious name under Business Name.
- Note: for the State of California tax purposes, a Single Member LLC is not disregarded from its owner, even if they may be disregarded at the Federal level.
- Partnerships, Estates/Trusts, or Corporations – enter the entity name as shown on the entity’s federal tax return. The name provided in Section 1 must match to the TIN provided in section 3. Enter any DBA, trade, or fictitious business names under Business Name.

**Business Name** – Enter the business name, DBA name, trade or fictitious name, or disregarded LLC name.

**Mailing Address** – The mailing address is the address where the payee will receive information returns. Use form STD 205, Payee Data Record Supplement to provide a remittance address if different from the mailing address for information returns, or make subsequent changes to the remittance address.

**Section 2 – Entity Type**

If the Payee in Section 1 is a(n)...	THEN Select the Box for...
Individual • Sole Proprietorship • Grantor (Revocable Living) Trust disregarded for federal tax purposes	Sole Proprietor/Individual
Limited Liability Company (LLC) owned by an individual and is disregarded for federal tax purposes	Single Member LLC-owned by an individual
Partnerships • Limited Liability Partnerships (LLP) • and, LLC treated as a Partnership	Partnerships
Estate • Trust (other than disregarded Grantor Trust)	Estate or Trust
Corporation that is medical in nature (e.g., medical and healthcare services, physician care, nursery care, dentistry, etc.) • LLC that is to be taxed like a Corporation and is medical in nature	Corporation-Medical
Corporation that is legal in nature (e.g., services of attorneys, arbitrators, notary publics involving legal or law related matters, etc.) • LLC that is to be taxed like a Corporation and is legal in nature	Corporation-Legal
Corporation that qualifies for an Exempt status, including 501(c) 3 and domestic non-profit corporations.	Corporation-Exempt
Corporation that does not meet the qualifications of any of the other corporation types listed above • LLC that is to be taxed as a Corporation and does not meet any of the other corporation types listed above	Corporation-All Other

**Section 3 – Tax Identification Number**

The State of California requires that all parties entering into business transactions that may lead to payment(s) from the state provide their Taxpayer Identification Number (TIN). The TIN is required by R&TC sections 18646 and 18661 to facilitate tax compliance enforcement activities and preparation of Form 1099 and other information returns as required by the IRC section 6109(a) and R&TC section 18662 and its regulations.

**Section 4 – Payee Residency Status**

**Are you a California resident or nonresident?**

- A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.
- A partnership is considered a resident partnership if it has a permanent place of business in California.
- An estate is a resident if the decedent was a California resident at time of death.
- A trust is a resident if at least one trustee is a California resident.
  - For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.

For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below:

Withholding Services and Compliance Section: 1-888-792-4900  
 For hearing impaired with TDD, call: 1-800-822-6268

E-mail address: [wscs.gen@ftb.ca.gov](mailto:wscs.gen@ftb.ca.gov)  
 Website: [www.ftb.ca.gov](http://www.ftb.ca.gov)

**Section 5 – Certification**

Provide the name, title, email address, signature, and telephone number of individual completing this form and date completed. In the event that a SSN or ITIN is provided, the individual identified as the tax liable party must certify the form. Note: the signee may differ from the tax liable party in this situation if the signee can provide a power of attorney documented for the individual.

**Section 6 – Paying State Agency**

This section must be completed by the state agency/department requesting the STD 204.

**Privacy Statement**

Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, state, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it. It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and state law imposes noncompliance penalties of up to \$20,000. You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the state agency(ies) with which you transact that business.

All questions should be referred to the requesting state agency with the bottom of the form.

**Rescission Agreement Exhibit A**