



October 24, 2023

Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue
Bakersfield, CA. 93301

PROPOSED RETROACTIVE AGREEMENTS WITH NON-PROFIT ORGANIZATIONS
Fiscal Impact: \$246,000; General Fund; Budgeted; Discretionary

The County’s Adopted Budget for Fiscal Year 2023-24 includes funds to support activities and programs provided to the citizens of Kern County by community based, non-profit organizations. Funding for these agreements is budgeted in the Special Services budget unit 1040.

The purpose and amount of each agreement is as follows:

<p>Alzheimer’s Disease Association of Kern County</p> <ul style="list-style-type: none"> • Socialization activities for persons diagnosed with Alzheimer’s. • Provide support groups, educational classes, community referrals and a resource library to families and friends affected. 	<p>\$30,000</p>
<p>Arts Council of Kern</p> <ul style="list-style-type: none"> • Develop and expand access to the arts for children, teens, and adults where access is otherwise limited. • Provide countywide ArtWalks or similar activities. • Expand awareness and appreciation of the cultural heritage of the citizens of Kern County. • Administer an expanded community grants program to include additional arts and creative projects throughout Kern County. 	<p>\$45,000</p>
<p>Bakersfield Museum of Art</p> <ul style="list-style-type: none"> • Offer twelve free admission and extended hours days for all visitors. • Offer discounted pricing for “Museum on the Move” mobile museum program to any Kern County library branch (by request). • Participate in the “Blue Star Museum” program that offers free admission to the nation’s active-duty military personnel and their families for a three-month period. • Offer free docent-guided group tours for schools in Kern County (by request) 	<p>\$23,000</p>
<p>Bakersfield Symphony Orchestra</p> <ul style="list-style-type: none"> • Provide performances of classical and orchestral music to residents of Kern County. 	<p>\$45,000</p>

Court Appointed Special Advocates (CASA) <ul style="list-style-type: none"> Recruit, screen, train, and supervise CASA volunteers. Act as an objective observer and reporter on behalf of foster youth to the Court. Advocate for foster youth when services are needed or should be altered. Serve as a mentor and positive role model for children under the jurisdiction of the Court. 	\$65,000
Kern Literacy Council <ul style="list-style-type: none"> Work to improve literacy and numeracy in the community. Purchase equipment and materials to increase outreach and programming. Expand program to outlying areas of Kern County. Expand tutoring network program to all Kern County Library Branches. 	\$10,000
Kern Medical Center Foundation <ul style="list-style-type: none"> Support the Valley Fever patient database for the benefit of Kern County Residents. Research anti-fungal medication for treatment, improved diagnostics, and work towards a Valley Fever vaccine. 	\$23,000
Volunteer Center of Kern County <ul style="list-style-type: none"> Train and provide materials to operate and staff an Emergency Volunteer Center. 	\$5,000

The term of the agreements is July 1, 2023, through June 30, 2024. The agreements are retroactive due to the timing of budget adoption. County Counsel has approved the agreements as to form.

Therefore, IT IS RECOMMENDED that your Board approve the agreements with the Alzheimer's Disease Association of Kern County in the amount of \$30,000, Arts Council of Kern in the amount of \$45,000, Bakersfield Museum of Art in the amount of \$23,000, Bakersfield Symphony Orchestra in the amount of \$45,000, Court Appointed Special Advocates in the amount of \$65,000, Kern Literacy Council in the amount of \$10,000, Kern Medical Center Foundation in the amount of \$23,000, and Volunteer Center of Kern County in the amount of \$5,000 for the FY 2023-24 contributions and authorize the Chairman to sign.

Sincerely,

James L. Zervis
 Chief Administrative Officer

JZ/JC/ADM CONT Non-profits

Attachments

cc: County Counsel
 Auditor-Controller

**AGREEMENT
FOR
ADULT DAY CARE CENTER**
(County of Kern – Alzheimer’s Disease Association of Kern County)

THIS AGREEMENT (“**Agreement**”), is made effective this _____ (“**Effective Date**”), is by and between the COUNTY OF KERN, a political subdivision of the State of California (“**COUNTY**”), and the ALZHEIMER’S DISEASE ASSOCIATION OF KERN COUNTY, a California nonprofit corporation (“**CENTER**”). COUNTY and the CENTER are referred to herein individually as “**Party**” and collectively as “**Parties**”.

RECITALS:

The Board of Supervisors of the COUNTY may enter into agreements with organizations for the purpose of benefiting Kern County residents.

The CENTER is a non-profit agency dedicated to serving the local Alzheimer’s and dementia population through daycare services in Kern County.

Funds were appropriated in the Fiscal Year 2023-24 County Budget in the sum of Thirty Thousand (\$30,000) Dollars to be used for providing assistance to families in navigating the progression of the Alzheimer’s and dementia diseases.

The CENTER is a program providing valuable services to the citizens of Kern County.

NOW, THEREFORE, the Parties agree as follows:

1. During the term beginning July 1, 2023 and ending June 30, 2024, the CENTER will provide:
 - a. Client and Family Assessments to include; individualized socialization activities, in-home safety assessments and emergency food response for persons diagnosed with Alzheimer’s or dementia AND;
 - b. Socialization and activities for persons diagnosed with Alzheimer’s or dementia, AND;
 - c. Support services to include; support groups, crisis counseling, educational programs, community referrals, and Alzheimer’s related resources AND;
 - d. Adult Day Services to include; physical and mental stimulating activities and nutritious meals, while maintaining a safe, healthy and sanitary environment AND;
 - e. Transportation Services to include: all-inclusive, door-to-door services provided by dementia-trained drivers and a dementia-trained companion when needed.
2. In full consideration for all services rendered by the CENTER, COUNTY agrees to pay and the CENTER agrees to accept the sum of Thirty Thousand (\$30,000) Dollars.
3. The CENTER shall be solely responsible for all costs and expenses related to the provision of services under this Agreement. COUNTY’s sole obligation under and pursuant to the terms and provisions of this Agreement shall be the payment to the CENTER as specified in **Paragraph 2.**

4. In the performance of all services under this Agreement, the CENTER shall be, and acknowledges that it is, in fact and law, an independent contractor and not an agent or employee of the COUNTY. The CENTER has and retains the right to exercise full supervision and control of the manner and methods of providing services to the COUNTY under this Agreement. The CENTER retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting the CENTER in the provision of services under this Agreement. With respect to the CENTER employees, the Center shall be solely responsible for the payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, whether federal, state, or local, and compliance with any and all other laws regulating employment.
5. The CENTER agrees to maintain and make available to the COUNTY accurate books and records relative to all of its activities under this Agreement. The CENTER shall permit the COUNTY to audit, examine and make excerpts and transcripts from such records, and to conduct audits of all invoices, materials, or other data related to all other matters covered by this Agreement. The CENTER shall maintain such data and records in an accessible location and condition for a period of not less than three years from the conclusion of the term specified in **Paragraph 1**.
6. The CENTER agrees to indemnify, defend and hold harmless the COUNTY and the COUNTY'S Board members, agents, elected and appointed officials and officers, employees, volunteers and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs and expenses, of whatever kind or nature (including, but not limited to, reasonable attorneys' fees of counsel retained by the COUNTY, expert fees, costs of staff time and investigation costs) which arise out of or are in any way connected with any negligent or willful act or omission of the CENTER or its officers, agents, employees, independent contractors, sub-contractors of any tier or authorized representatives arising out of this Agreement. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of the CENTER; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of the CENTER by any person or entity. The CENTER shall also indemnify COUNTY from any and all liability or damages incurred by COUNTY from any improper expenditure of funds by the CENTER.
7. It is understood that the CENTER, in the CENTER's performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has no authority to bind the COUNTY to any agreements or undertakings.
8. The COUNTY may immediately suspend or terminate this Agreement, in whole or in part, where in the determination of the COUNTY there is:
 - a. an illegal or improper use of the funds provided by the COUNTY; or
 - b. a failure to comply with any term of this Agreement.

In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this Agreement or any default, which may then exist on the part of the CENTER. Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of the CENTER the repayment to the COUNTY of any funds disbursed to the CENTER under this Agreement which in the judgment of the COUNTY were not expended in accordance with the terms of this Agreement. The CENTER

shall promptly refund any such funds upon demand. In addition to immediate suspension or termination, the COUNTY may impose any other remedies available at law, in equity, or otherwise specified in this Agreement.

9. **INSURANCE.** CENTER, in order to protect COUNTY and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of CENTER's actions in connection with the performance of CENTER's obligations, as required in this Agreement, shall secure and maintain insurance as described below. CENTER shall not perform any work under this Agreement until CENTER has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the COUNTY's authorized insurance representative, Insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, CENTER shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon. The CENTER shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. CENTER shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by CENTER or COUNTY as an additional insured.
 - a. **Workers' Compensation and Employers Liability Insurance Requirement --** In the event CENTER has employees who may perform any services pursuant to this Agreement, CENTER shall submit written proof that CENTER is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. CENTER shall require any sub-contractors to provide workers' compensation for all of the subcontractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by CENTER. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, CENTER shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered. CENTER shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.
 - b. **Liability Insurance Requirements:**
 - (1) CENTER shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:
 - (a) Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the COUNTY), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of CENTER's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. CENTER shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termina-

tion of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.

- (b) Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence.
 - (c) Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required services under this Agreement, with coverage equal to the policy limits, which shall not be less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
- (2) The Commercial General Liability and Automobile liability Insurance required in this subparagraph b. shall include an endorsement naming the COUNTY and COUNTY's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options:
- (i) on ISO form CG 20 10 11 85; or
 - (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or
 - (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.
- (3) Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to COUNTY and must be approved by the COUNTY Risk Manager.
- (4) If any of the insurance coverages required under this Agreement is written on a claims-made basis, CENTER, at CENTER's option, shall either
- (i) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement;
 - (ii) purchase an extended reporting period of not less than three (3) years following the termination of this Agreement; or
 - (iii) acquire a full prior acts provision on any renewal or replacement policy.
- c. Cancellation of Insurance -- The above stated insurance coverages required to be maintained by CENTER shall be maintained until the completion of all of CENTER's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the CENTER shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by CENTER in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. CENTER shall immediately obtain replacement coverage

for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

- d. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-;
 - e. If CENTER is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, CENTER shall provide coverage equivalent to the insurance coverages and endorsements required above. The COUNTY will not accept such coverage unless the COUNTY determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by CENTER is equivalent to the above-required coverages.
 - f. All insurance afforded by CENTER pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by the COUNTY. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the COUNTY. A waiver of right of recovery (waiver of subrogation) is only required on Workers' Compensation policies when a CENTER's personnel deliver or perform services for the COUNTY while on COUNTY property.
 - g. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve CENTER for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the COUNTY from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.
 - h. Failure by CENTER to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by CENTER. COUNTY, at its sole option, may terminate this Agreement and obtain damages from CENTER resulting from said breach. Alternatively, COUNTY may purchase such required insurance coverage, and without further notice to CENTER, COUNTY shall deduct from sums due to CENTER any premiums and associated costs advanced or paid by COUNTY for such insurance. If the balance of monies obligated to CENTER pursuant to this Agreement are insufficient to reimburse COUNTY for the premiums and any associated costs, CENTER agrees to reimburse COUNTY for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by COUNTY to take this alternative action shall not relieve CENTER.
 - i. Any exception to these requirements must be approved by the COUNTY Risk Manager.
10. Any notice required or permitted to be given under this Agreement shall be in writing and shall be served by registered mail or personal service upon the other Party. When served by registered mails, service shall be conclusively deemed to be made three days after deposit with the United States Postal Service (postage prepaid) addressed to the Party to whom such notice is to be given as follows:

Notice to COUNTY shall be made to:

Clerk of the Board of Supervisors
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301

Notice to the CENTER shall be made to:

Alzheimer's Disease Association of Kern County
4203 Buena Vista Road
Bakersfield, CA 93311

11. None of the funds provided under this Agreement shall be used for any political activity, or to further the election or defeat of any candidate for public office contrary to federal or state laws, statutes, regulations, rules or guidelines. In addition, none of the funds provided or property purchased under this Agreement shall be used for purposes designed to support or defeat legislation before the Congress of the United States of America or the Legislature of the State of California.
12. No covenant or condition of this Agreement can be waived except by the written consent of the COUNTY. Forbearance or indulgence by the COUNTY in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the CENTER. The CENTER shall be entitled to invoke any remedy available to the COUNTY under this Agreement or by law or in equity despite said forbearance or indulgence.
13. The Parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California. This Agreement has been entered into and is to be performed in the County of Kern. Accordingly, the Parties agree that the venue of any action relating to this Agreement shall be in the County of Kern.
14. No right or remedy herein conferred on or reserved to the COUNTY is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.
15. Each Party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
16. It is expressly understood and agreed that the enforcement of these terms and conditions, and all rights of action relating to such enforcement, shall be strictly reserved to the COUNTY and the CENTER. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the COUNTY and the CENTER that any such person or entity, other than the COUNTY or the CENTER, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.
17. The CENTER shall observe and comply with all applicable local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which are hereby made a part hereof and incorporated herein by reference.
 - a. HIPAA-HITECH-Where applicable CENTER agrees to safeguard and protect patient privacy as required by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws. Center agrees to: (i) implement appropriate safeguards and maintain individually identifiable patient health information ("Protected Health Information" or "PHI", including electronic PHI); (ii) use and disclose only the minimum necessary PHI; (iii) use and

disclose PHI only as permitted under HIPAA for legal, management and administrative purposes in connection with treatment, payment and healthcare operations or as required by law; (iv) require third parties to whom it may disclose PHI to agree in writing to similar restrictions and to comply with HIPAA; (v) track disclosures of PHI as required under HIPAA, to include the nature of the information disclosed, the date of the disclosure, to whom the information was disclosed, address of the recipient, if known, and the purpose of the disclosure and provide COUNTY with an accounting of such disclosures promptly upon request; (vi) promptly notify COUNTY of disclosures of PHI in violation of HIPAA and this Agreement and take steps to mitigate, to the extent practicable, deleterious effects of improper use of PHI; (vii) promptly make PHI available to COUNTY and patients upon request; and (viii) permit patients to request amendment to or correction of PHI, amend and/or correct PHI as appropriate when so requested, notify COUNTY of requests for correction and amendments to PHI by patients and incorporate into PHI amendments and/or corrections made to PHI by COUNTY as directed by COUNTY. Center acknowledges that PHI received from COUNTY shall remain COUNTY's property and that within ten (10) business days of COUNTY's request or upon termination of this Agreement, said PHI shall be returned to COUNTY or be destroyed, if COUNTY so directs. If such return or destruction is infeasible, Center shall use such PHI only for purposes that make such return or destruction infeasible and the provisions of this Agreement shall survive with respect to such PHI. Center has established internal policies and procedures regarding HIPAA compliance and privacy and agrees to make such policies and procedures available to COUNTY upon request.

18. This Agreement contains the entire agreement of the parties relating to the services, rights, obligations and covenants contained herein and assumed by the parties respectively. No inducements, representations or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect. This Agreement may be modified in writing only, signed by the parties.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the Effective Date.

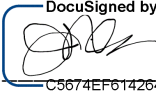
COUNTY OF KERN

Alzheimer’s Disease Association of Kern County

By: _____

Chairman
Board of Supervisors

“COUNTY”

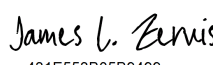
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By: _____
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Janelle Capra, Executive Director
Alzheimer’s Disease Association of Kern

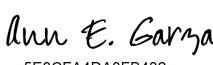
“CENTER”

APPROVED AS TO CONTENT:
County Administrative Office

APPROVED AS TO FORM:
Office of County Counsel

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By: _____
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James L. Zervis
Chief Administrative Officer

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Ann Garza
Deputy County Counsel

**AGREEMENT
FOR
ARTS INFORMATIONAL AND PROMOTIONAL SERVICES**
(County of Kern – Arts Council of Kern)

THIS AGREEMENT (“Agreement”), is made effective this _____ (“**Effective Date**”), by and between the COUNTY OF KERN, a political subdivision of the State of California (“**COUNTY**”), and the ARTS COUNCIL OF KERN, a California nonprofit corporation (“**ARTS COUNCIL**”). COUNTY and ARTS COUNCIL are referred to herein individually as “**Party**” and collectively as “**Parties**”.

RECITALS:

Provisions of the California Education Code section 10900 et seq. authorize the COUNTY to organize, promote, and conduct such programs of community recreation as will contribute to the attainment of general educational and recreational objectives for children and adults of the State, including activities in the fields of music, drama, art, handicraft, science, and literature.

The Board of Supervisors of the COUNTY desires to encourage, promote, and publicize the arts for the recreational, cultural, and educational benefit of the citizens of Kern County.

The ARTS COUNCIL has been organized as a nonprofit organization to encourage, promote, and publicize the arts in Kern County, and to provide information and referral services to organizations, artists, and citizens interested in the arts.

Funds were appropriated in the Fiscal Year 2023-24 County Budget in the sum of Forty-Five Thousand, (\$45,000) Dollars for the purpose of encouraging, promoting, and publicizing the arts in Kern County through the services of ARTS COUNCIL.

NOW, THEREFORE, the parties agree as follows:

1. During the term beginning July 1, 2023 and ending June 30, 2024, ARTS COUNCIL will provide the following services for the benefit of the citizens of Kern County:
 - a. Developing and expanding access to the arts for children, teens, and adults where access to the arts is limited;
 - b. Providing regularly scheduled countywide ArtWalks or similar activities to engage Kern County residents;
 - c. Providing workshops and seminars to expand the professional development of local artists;
 - d. Expanding awareness and appreciation of the rich cultural heritages of the citizens of Kern County with the collaboration of schools, libraries and various organizations; and
 - e. Administering an expanded community grants program to include additional arts and creative projects throughout Kern County.

2. In full consideration for all services rendered by ARTS COUNCIL, COUNTY agrees to pay, and ARTS COUNCIL agrees to accept the sum of Forty-Five Thousand (\$45,000) Dollars.
3. The ARTS COUNCIL shall be solely responsible for all costs and expenses related to the provision of services under this Agreement. COUNTY's sole and only obligation under and pursuant to the terms and provisions of this Agreement shall be the payment to the ARTS COUNCIL as specified in **Paragraph 2** hereinabove.
4. In the performance of all services under this Agreement, the ARTS COUNCIL shall be, and acknowledges that it is, in fact and law, an independent contractor and not an agent or employee of the COUNTY. The ARTS COUNCIL has and retains the right to exercise full supervision and control of the manner and methods of providing services to the COUNTY under this Agreement. The ARTS COUNCIL retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting the ARTS COUNCIL in the provision of services under this Agreement. With respect to the ARTS COUNCIL's employees, the ARTS COUNCIL shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, whether federal, state or local, and compliance with any and all other laws regulating employment.
5. The ARTS COUNCIL agrees to maintain and make available to the COUNTY accurate books and records relative to all its activities under this Agreement. The ARTS COUNCIL shall permit the COUNTY to audit, examine and make excerpts and transcripts from such records, and to conduct audits of all invoices, materials, or other data related to all other matters covered by this Agreement. The ARTS COUNCIL shall maintain such data and records in an accessible location and condition for a period of not less than three years from the conclusion of the period of restricted use under **Paragraph 1** or until the completion of a financial statement audit.
6. The ARTS COUNCIL agrees to indemnify, defend and hold harmless the COUNTY and the COUNTY's Board members, agents, elected and appointed officials and officers, employees, volunteers and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs and expenses, of whatever kind or nature (including, but not limited to, reasonable attorneys' fees of counsel retained by the COUNTY, expert fees, costs of staff time and investigation costs) which arise out of or are in any way connected with any negligent or willful act or omission of the ARTS COUNCIL or its officers, agents, employees, independent contractors, sub-contractors of any tier or authorized representatives arising out of this Agreement. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of the ARTS COUNCIL; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of the ARTS COUNCIL by any person or entity. The ARTS COUNCIL shall also indemnify COUNTY from any and all liability or damages incurred by COUNTY from any improper expenditure of funds by the ARTS COUNCIL.
7. It is understood that ARTS COUNCIL, in ARTS COUNCIL's performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has no authority to bind the COUNTY to any agreements or undertakings.
8. The COUNTY may immediately suspend or terminate this Agreement, in whole or in part, where in the determination of the COUNTY there is:
 - a. an illegal or improper use of the funds provided by the COUNTY; or

- b. a failure to comply with any term of this Agreement.

In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this Agreement or any default, which may then exist on the part of the ARTS COUNCIL. Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of the ARTS COUNCIL the repayment to the COUNTY of any funds disbursed to the ARTS COUNCIL under this Agreement which in the judgment of the COUNTY were not expended in accordance with the terms of this Agreement. The ARTS COUNCIL shall promptly refund any such funds upon demand. In addition to immediate suspension or termination, the COUNTY may impose any other remedies available at law, in equity, or otherwise specified in this Agreement.

- 9. **INSURANCE.** ARTS COUNCIL, in order to protect COUNTY and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of ARTS COUNCIL's actions in connection with the performance of CENTER's obligations, as required in this Agreement, shall secure and maintain insurance as described below. ARTS COUNCIL shall not perform any work under this Agreement until ARTS COUNCIL has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the COUNTY's authorized insurance representative, Insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, ARTS COUNCIL shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon. The ARTS COUNCIL shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. ARTS COUNCIL shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by ARTS COUNCIL or COUNTY as an additional insured.

- a. **Workers' Compensation and Employers Liability Insurance Requirement** -- In the event ARTS COUNCIL has employees who may perform any services pursuant to this Agreement, ARTS COUNCIL shall submit written proof that ARTS COUNCIL is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. ARTS COUNCIL shall require any sub-contractors to provide workers' compensation for all of the subcontractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by ARTS COUNCIL. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, ARTS COUNCIL shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered. ARTS COUNCIL shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

- b. **Liability Insurance Requirements:**

- (1) ARTS COUNCIL shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:

- (a) Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the COUNTY), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of ARTS COUNCIL's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. ARTS COUNCIL shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.
 - (b) Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence.
 - (c) Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required services under this Agreement, with coverage equal to the policy limits, which shall not be less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
- (2) The Commercial General Liability and Automobile liability Insurance required in this subparagraph b. shall include an endorsement naming the COUNTY and COUNTY's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options:
- (i) on ISO form CG 20 10 11 85; or
 - (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or
 - (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.
- (3) Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to COUNTY and must be approved by the COUNTY Risk Manager.
- (4) If any of the insurance coverages required under this Agreement is written on a claims-made basis, ARTS COUNCIL, at ARTS COUNCIL's option, shall either
- (i) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement;
 - (ii) purchase an extended reporting period of not less than three (3) years following the termination of this Agreement; or

- (iii) acquire a full prior acts provision on any renewal or replacement policy.
- c. Cancellation of Insurance -- The above stated insurance coverages required to be maintained by ARTS COUNCIL shall be maintained until the completion of all of ARTS COUNCIL's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the ARTS COUNCIL shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by ARTS COUNCIL in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. ARTS COUNCIL shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.
- d. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-;
- e. If ARTS COUNCIL is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, ARTS COUNCIL shall provide coverage equivalent to the insurance coverages and endorsements required above. The COUNTY will not accept such coverage unless the COUNTY determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by ARTS COUNCIL is equivalent to the above-required coverages.
- f. All insurance afforded by ARTS COUNCIL pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by the COUNTY. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the COUNTY. A waiver of right of recovery (waiver of subrogation) is only required on Workers' Compensation policies when ARTS COUNCIL's personnel deliver or perform services for the COUNTY while on COUNTY property.
- g. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve ARTS COUNCIL for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the COUNTY from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.
- h. Failure by ARTS COUNCIL to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by ARTS COUNCIL. COUNTY, at its sole option, may terminate this Agreement and obtain damages from ARTS COUNCIL resulting from said breach. Alternatively, COUNTY may purchase such required insurance coverage, and without further notice to ARTS COUNCIL, COUNTY shall deduct from sums due to ARTS COUNCIL any premiums and associated costs advanced or paid by COUNTY for such insurance. If the balance of monies obligated to ARTS COUNCIL pursuant to this Agreement are insufficient to reimburse COUNTY for the premiums and any associated costs, ARTS COUNCIL agrees to reimburse COUNTY for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by COUNTY to take this alternative action shall not relieve ARTS COUNCIL.
- i. Any exception to these requirements must be approved by the COUNTY Risk Manager.

10. Any notice required or permitted to be given under this Agreement shall be in writing and shall be served by registered mail or personal service upon the other Party. When served by registered mails, service shall be conclusively deemed to be made three days after deposit with the United States Postal Service (postage prepaid) addressed to the Party to whom such notice is to be given as follows:

Notice to COUNTY shall be made to:

Clerk of the Board of Supervisors
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301

Notice to the ARTS COUNCIL shall be made to:

Arts Council of Kern
3801 Chester Ave.
Bakersfield, CA 93301

11. None of the funds provided under this Agreement shall be used for any political activity, or to further the election or defeat of any candidate for public office contrary to federal or state laws, statutes, regulations, rules or guidelines. In addition, none of the funds provided or property purchased under this Agreement shall be used for purposes designed to support or defeat legislation before the Congress of the United States of America or the Legislature of the State of California.
12. No covenant or condition of this Agreement can be waived except by the written consent of the COUNTY. Forbearance or indulgence by the COUNTY in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the ARTS COUNCIL. The COUNTY shall be entitled to invoke any remedy available to the COUNTY under this Agreement or by law or in equity despite said forbearance or indulgence.
13. The Parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California. This Agreement has been entered into and is to be performed in the County of Kern. Accordingly, the Parties agree that the venue of any action relating to this Agreement shall be in the County of Kern.
14. No right or remedy herein conferred on or reserved to the COUNTY is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.
15. Each Party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
16. It is expressly understood and agreed that the enforcement of these terms and conditions, and all rights of action relating to such enforcement, shall be strictly reserved to the COUNTY and the ARTS COUNCIL. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the COUNTY and the ARTS COUNCIL that any such person or entity, other than the COUNTY or the ARTS COUNCIL, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

17. The ARTS COUNCIL shall observe and comply with all applicable local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which are hereby made a part hereof and incorporated herein by reference.
18. This Agreement contains the entire agreement of the parties relating to the services, rights, obligations and covenants contained herein and assumed by the Parties respectively. No inducements, representations or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect. This Agreement may be modified in writing only, signed by the Parties.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the Effective Date.

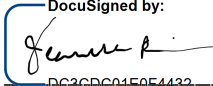
COUNTY OF KERN

ARTS COUNCIL OF KERN

By: _____

Chairman
Board of Supervisors

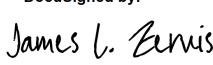
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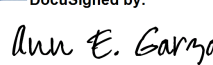
DocuSigned by:

By: _____
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Jeanette Richardson, Executive Director
Arts Council of Kern

“ARTS COUNCIL”

APPROVED AS TO CONTENT:
County Administrative Office

APPROVED AS TO FORM:
Office of County Counsel

DocuSigned by:

By: _____
434E553B05B0409...
James L. Zervis
Chief Administrative Officer

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By: _____
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Ann Garza
Deputy County Counsel

**AGREEMENT
FOR
ARTS INFORMATIONAL AND PROMOTIONAL SERVICES**
(County of Kern – Bakersfield Museum of Art)

THIS AGREEMENT (“**Agreement**”), is made effective this _____ (“**Effective Date**”), by and between the COUNTY OF KERN, a political subdivision of the State of California (“**COUNTY**”), and the BAKERSFIELD MUSEUM OF ART, a California nonprofit corporation (“**MUSEUM OF ART**”). COUNTY and MUSEUM OF ART are referred to herein individually as “**Party**” and collectively as “**Parties**”.

RECITALS:

Provisions of the California Education Code section 10900 et seq. authorize the COUNTY to organize, promote, and conduct such programs of community recreation as will contribute to the attainment of general educational and recreational objectives for children and adults of the State, including activities in the fields of music, drama, art, handicraft, science, and literature.

The Board of Supervisors of the COUNTY desires to encourage, promote, and publicize the arts for the recreational, cultural, and educational benefit of the citizens of Kern County.

The MUSEUM OF ART has been organized as a nonprofit organization to encourage, promote, and publicize the arts in Kern County, and to provide information and referral services to organizations, artists, and citizens interested in the arts.

Funds were appropriated in the Fiscal Year 2023-24 County Budget in the sum of Twenty-Three Thousand (\$23,000) Dollars for the purpose of encouraging, promoting, and publicizing the arts in Kern County through the services of the MUSEUM OF ART.

NOW, THEREFORE, the parties hereby mutually agree as follows:

1. During the term beginning July 1st, 2023 and ending June 30, 2024, the MUSEUM OF ART will provide the following services for the benefit of the citizens of Kern County:
 - a. Offer twelve free admission days and extended hour periods (4:00 PM to 8:00 PM) for all visitors;
 - b. Offer discounted pricing for “Museum on the Move” mobile museum program to any Kern County library branch (by request);
 - c. Participate in the “Blue Star Museum” program that offers free admission to the nation’s active-duty military personnel and their families, from Memorial Day through Labor Day 2024;
 - d. Offer free docent-guided group tours for all schools in Kern County (by request).
2. In full consideration for all services rendered by the MUSEUM OF ART, COUNTY agrees to pay and MUSEUM OF ART agrees to accept the sum of Twenty-Three Thousand (\$23,000) Dollars.
3. The MUSEUM OF ART shall be solely responsible for all costs and expenses related to the provision of services under this Agreement. COUNTY’s sole and only obligation under and pursuant to the terms and provisions of this Agreement shall be the payment to the MUSEUM OF ART as specified in **Paragraph 2** hereinabove.

4. In the performance of all services under this Agreement, the MUSEUM OF ART shall be, and acknowledges that it is, in fact and law, an independent contractor and not an agent or employee of the COUNTY. The MUSEUM OF ART has and retains the right to exercise full supervision and control of the manner and methods of providing services to the COUNTY under this Agreement. The MUSEUM OF ART retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting the MUSEUM OF ART in the provision of services under this Agreement. With respect to the MUSEUM OF ART's employees, the MUSEUM OF ART shall be solely responsible for payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, whether federal, state or local, and compliance with any and all other laws regulating employment.
5. The MUSEUM OF ART agrees to maintain and make available to the COUNTY accurate books and records relative to all its activities under this Agreement. The MUSEUM OF ART shall permit the COUNTY to audit, examine and make excerpts and transcripts from such records, and to conduct audits of all invoices, materials, or other data related to all other matters covered by this Agreement. The MUSEUM OF ART shall maintain such data and records in an accessible location and condition for a period of not less than three years from the conclusion of the period of restricted use under **Paragraph 1**.
6. The MUSEUM OF ART agrees to indemnify, defend and hold harmless the COUNTY and the COUNTY's Board members, agents, elected and appointed officials and officers, employees, volunteers and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs and expenses, of whatever kind or nature (including, but not limited to, reasonable attorneys' fees of counsel retained by the COUNTY, expert fees, costs of staff time and investigation costs) which arise out of or are in any way connected with any negligent or willful act or omission of the MUSEUM OF ART or its officers, agents, employees, independent contractors, sub-contractors of any tier or authorized representatives arising out of this Agreement. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of the MUSEUM OF ART; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of the MUSEUM OF ART by any person or entity. The MUSEUM OF ART shall also indemnify COUNTY from any and all liability or damages incurred by COUNTY from any improper expenditure of funds by the MUSEUM OF ART. The MUSEUM OF ART shall also indemnify COUNTY from any and all liability or damages incurred by COUNTY from any improper expenditure of funds by the MUSEUM OF ART.
 - a. **Third Party Claims.** If any claim is asserted or action or proceeding brought against COUNTY which alleges that all or any Exhibit or Presentation supplied by MUSEUM OF ART or COUNTY's use thereof, infringes or misappropriates any United States or foreign patent or copyright, or any trade secret or other proprietary right, COUNTY shall give MUSEUM OF ART prompt written notice thereof. MUSEUM OF ART shall defend any such claim or action with counsel of MUSEUM OF ART's choice and at MUSEUM OF ART's expense and shall indemnify COUNTY for any costs, including reasonable attorney's fees and damages actually incurred by COUNTY in connection therewith, including steps COUNTY may take to avoid entry of any default judgment or other waiver of COUNTY's rights. COUNTY shall cooperate fully with and may monitor MUSEUM OF ART in the defense of any claim, action or proceeding and will make employees available as MUSEUM OF ART may reasonably request with

regard to such defense, subject to reimbursement by MUSEUM OF ART of all costs and expenses occasioned by COUNTY's cooperation in such defense.

7. It is understood that MUSEUM OF ART, in MUSEUM OF ART's performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has no authority to bind the COUNTY to any agreements or undertakings.
8. The COUNTY may immediately suspend or terminate this Agreement, in whole or in part, where in the determination of the COUNTY there is:
 - a. an illegal or improper use of the funds provided by the COUNTY; or
 - b. a failure to comply with any term of this Agreement.

In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this Agreement or any default, which may then exist on the part of the MUSEUM OF ART. Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of the MUSEUM OF ART the repayment to the COUNTY of any funds disbursed to the MUSEUM OF ART under this Agreement which in the judgment of the COUNTY were not expended in accordance with the terms of this Agreement. The MUSEUM OF ART shall promptly refund any such funds upon demand. In addition to immediate suspension or termination, the COUNTY may impose any other remedies available at law, in equity, or otherwise specified in this Agreement.

9. **INSURANCE.** MUSEUM OF ART, in order to protect COUNTY and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of MUSEUM OF ART's actions in connection with the performance of MUSEUM OF ART's obligations, as required in this Agreement, shall secure and maintain insurance as described below. MUSEUM OF ART shall not perform any work under this Agreement until MUSEUM OF ART has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the COUNTY's authorized insurance representative, Insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, MUSEUM OF ART shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon. The MUSEUM OF ART shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. MUSEUM OF ART shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by MUSEUM OF ART or COUNTY as an additional insured.
 - a. **Workers' Compensation and Employers Liability Insurance Requirement** -- In the event MUSEUM OF ART has employees who may perform any services pursuant to this Agreement, MUSEUM OF ART shall submit written proof that MUSEUM OF ART is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the

California Labor Code. MUSEUM OF ART shall require any sub-contractors to provide workers' compensation for all of the subcontractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by MUSEUM OF ART. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, MUSEUM OF ART shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered. MUSEUM OF ART shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

b. Liability Insurance Requirements:

(1) MUSEUM OF ART shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:

(a) Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the COUNTY), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of MUSEUM OF ART's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. MUSEUM OF ART shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.

(b) Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence.

(c) Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required services under this Agreement, with coverage equal to the policy limits, which shall not be less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.

(2) The Commercial General Liability and Automobile liability Insurance required in this subparagraph b. shall include an endorsement naming the COUNTY and COUNTY's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options:

(i) on ISO form CG 20 10 11 85; or

(ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or

(iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.

- (3) Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to COUNTY and must be approved by the COUNTY Risk Manager.
- (4) If any of the insurance coverages required under this Agreement is written on a claims-made basis, MUSEUM OF ART, at MUSEUM OF ART's option, shall either
 - (i) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement;
 - (ii) purchase an extended reporting period of not less than three (3) years following the termination of this Agreement; or
 - (iii) acquire a full prior acts provision on any renewal or replacement policy.
- c. Cancellation of Insurance -- The above stated insurance coverages required to be maintained by MUSEUM OF ART shall be maintained until the completion of all of MUSEUM OF ART's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the MUSEUM OF ART shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by MUSEUM OF ART in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. MUSEUM OF ART shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.
- d. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-;
- e. If MUSEUM OF ART is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, MUSEUM OF ART shall provide coverage equivalent to the insurance coverages and endorsements required above. The COUNTY will not accept such coverage unless the COUNTY determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by MUSEUM OF ART is equivalent to the above-required coverages.
- f. All insurance afforded by MUSEUM OF ART pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by the COUNTY. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the COUNTY. A waiver of right of recovery (waiver of subrogation) is only required on Workers' Compensation policies when a MUSEUM OF ART's personnel deliver or perform services for the COUNTY while on COUNTY property.
- g. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve MUSEUM OF ART for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the COUNTY from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

- h. Failure by MUSEUM OF ART to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by MUSEUM OF ART. COUNTY, at its sole option, may terminate this Agreement and obtain damages from MUSEUM OF ART resulting from said breach. Alternatively, COUNTY may purchase such required insurance coverage, and without further notice to MUSEUM OF ART, COUNTY shall deduct from sums due to MUSEUM OF ART any premiums and associated costs advanced or paid by COUNTY for such insurance. If the balance of monies obligated to MUSEUM OF ART pursuant to this Agreement are insufficient to reimburse COUNTY for the premiums and any associated costs, MUSEUM OF ART agrees to reimburse COUNTY for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by COUNTY to take this alternative action shall not relieve MUSEUM OF ART.
 - i. Any exception to these requirements must be approved by the COUNTY Risk Manager.
10. Any notice required or permitted to be given under this Agreement shall be in writing and shall be served by registered mail or personal service upon the other Party. When served by registered mails, service shall be conclusively deemed to be made three days after deposit with the United States Postal Service (postage prepaid) addressed to the Party to whom such notice is to be given as follows:

Notice to COUNTY shall be made to:

Clerk of the Board of Supervisors
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301

Notice to the MUSEUM OF ART shall be made to:

Bakersfield Museum of Art
1930 R Street
Bakersfield, CA 93301

11. None of the funds provided under this Agreement shall be used for any political activity, or to further the election or defeat of any candidate for public office contrary to federal or state laws, statutes, regulations, rules or guidelines. In addition, none of the funds provided or property purchased under this Agreement shall be used for purposes designed to support or defeat legislation before the Congress of the United States of America or the Legislature of the State of California.
12. No covenant or condition of this Agreement can be waived except by the written consent of the COUNTY. Forbearance or indulgence by the COUNTY in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the MUSEUM OF ART. The COUNTY shall be entitled to invoke any remedy available to the COUNTY under this Agreement or by law or in equity despite said forbearance or indulgence.
13. The Parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California. This Agreement has been entered into and is to be performed in the County of Kern. Accordingly, the Parties agree that the venue of any action relating to this Agreement shall be in the County of Kern.
14. No right or remedy herein conferred on or reserved to the COUNTY is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every

other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.

15. Each Party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
16. It is expressly understood and agreed that the enforcement of these terms and conditions, and all rights of action relating to such enforcement, shall be strictly reserved to the COUNTY and the MUSEUM OF ART. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the COUNTY and the MUSEUM OF ART that any such person or entity, other than the COUNTY or the MUSEUM OF ART, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.
17. MUSEUM OF ART shall observe and comply with all applicable local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which are hereby made a part hereof and incorporated herein by reference.
18. This Agreement contains the entire agreement of the parties relating to the services, rights, obligations and covenants contained herein and assumed by the Parties respectively. No inducements, representations or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect. This Agreement may be modified in writing only, signed by the Parties.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the Effective Date.

COUNTY OF KERN

MUSEUM OF ART

By: _____
Chairman
Board of Supervisors
"COUNTY"

DocuSigned by:
Amy Smith
By: _____
41295B20E863470...
Amy Smith
Bakersfield Museum of Art
"MUSEUM OF ART"

APPROVED AS TO CONTENT:
County Administrative Office

APPROVED AS TO FORM:
Office of County Counsel

DocuSigned by:
James L. Zervis
By: _____
431E553B05B9499...
James L. Zervis
Chief Administrative Officer

DocuSigned by:
Ann E. Garza
By: _____
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Ann Garza
Deputy County Counsel

**AGREEMENT
FOR
ARTS INFORMATIONAL AND PROMOTIONAL SERVICES**
(County of Kern – Bakersfield Symphony Orchestra)

THIS AGREEMENT (“**Agreement**”), is made effective this _____ (“**Effective Date**”), by and between the COUNTY OF KERN, a political subdivision of the State of California (“**COUNTY**”), and the BAKERSFIELD SYMPHONY ORCHESTRA, a California nonprofit corporation (“**SYMPHONY**”). COUNTY and SYMPHONY are referred to herein individually as a “**Party**” and collectively as the “**Parties.**”

RECITALS:

Provisions of the California Education Code section 10900 et seq. authorize the COUNTY to organize, promote, and conduct such programs of community recreation as will contribute to the attainment of general educational and recreational objectives for children and adults of the State, including activities in the fields of music, drama, art, handicraft, science, and literature.

The Kern County Board of Supervisors desires to encourage, promote, and publicize the arts for the recreational, cultural, and educational benefit of the citizens of Kern County.

The SYMPHONY has been organized as a nonprofit organization to encourage, promote, and publicize the arts in Kern County, and to provide information and referral services to organizations, artists, and citizens interested in the arts.

Funds were appropriated in the Fiscal Year 2023-24 County Budget in the sum of Forty-Five Thousand, (\$45,000) Dollars for the purpose of encouraging, promoting, and publicizing the arts in Kern County through the services of the SYMPHONY.

NOW, THEREFORE, the Parties mutually agree as follows:

1. During the term beginning July 1, 2023 and ending June 30, 2024, the SYMPHONY will provide performances of classical and orchestral music to residents, along with robust music education opportunities for students throughout Kern County (“**Services**”).
2. In full consideration for all services rendered by the SYMPHONY, COUNTY agrees to pay and SYMPHONY agrees to accept a sum not to exceed Forty-Five Thousand (\$45,000) Dollars.
3. The SYMPHONY shall be solely responsible for all costs and expenses related to the provision of Services under this Agreement. COUNTY’s sole and only obligation under and pursuant to the terms and provisions of this Agreement shall be the payment to the SYMPHONY as specified in **Paragraph 2.**
4. In the performance of Services, the SYMPHONY shall be, and acknowledges that it is, in fact and law, an independent contractor and not an agent or employee of the COUNTY. The SYMPHONY has and retains the right to exercise full supervision and control of the manner and methods of providing Services to the COUNTY. The SYMPHONY retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting the SYMPHONY in the provision of Services. With respect to the SYMPHONY’s employees, the SYMPHONY shall be solely responsible for payment of wages, benefits and other compensation, compliance with all

occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, whether federal, state or local, and compliance with any and all other laws regulating employment.

5. The SYMPHONY agrees to maintain and make available to the COUNTY accurate books and records relative to all its activities under this Agreement. The SYMPHONY shall permit the COUNTY to audit, examine and make excerpts and transcripts from such records, and to conduct audits of all invoices, materials, or other data related to all other matters covered by this Agreement. The SYMPHONY shall maintain such data and records in an accessible location and condition for a period of not less than three years from the conclusion of the period of restricted use under **Paragraph 1**.
6. The SYMPHONY agrees to indemnify, defend and hold harmless the COUNTY and the COUNTY's Board members, agents, elected and appointed officials and officers, employees, volunteers and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs and expenses, of whatever kind or nature (including, but not limited to, reasonable attorneys' fees of counsel retained by the COUNTY, expert fees, costs of staff time and investigation costs) which arise out of or are in any way connected with any negligent or willful act or omission of the SYMPHONY or its officers, agents, employees, independent contractors, sub-contractors of any tier or authorized representatives arising out of this Agreement. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of the SYMPHONY; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of the SYMPHONY by any person or entity. The SYMPHONY shall also indemnify COUNTY from any and all liability or damages incurred by COUNTY from any improper expenditure of funds by the SYMPHONY.
 - a. **Third Party Claims.** If any claim is asserted or action or proceeding brought against COUNTY which alleges that all or any part of the music or performance supplied by SYMPHONY, infringes or misappropriates any United States or foreign patent or copyright, or any trade secret or other proprietary right, COUNTY shall give SYMPHONY prompt written notice thereof. SYMPHONY shall defend any such claim or action with counsel of SYMPHONY's choice and at SYMPHONY's expense and shall indemnify COUNTY for any costs, including reasonable attorney's fees and damages actually incurred by COUNTY in connection therewith, including steps COUNTY may take to avoid entry of any default judgment or other waiver of COUNTY's rights. COUNTY shall cooperate fully with and may monitor SYMPHONY in the defense of any claim, action or proceeding and will make employees available as SYMPHONY may reasonably request with regard to such defense, subject to reimbursement by SYMPHONY of all costs and expenses occasioned by COUNTY's cooperation in such defense.
7. It is understood that SYMPHONY, in SYMPHONY's performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has no authority to bind the COUNTY to any agreements or undertakings.
8. The COUNTY may immediately suspend or terminate this Agreement, in whole or in part, where in the determination of the COUNTY there is:
 - a. an illegal or improper use of the funds provided by the COUNTY; or
 - b. a failure to comply with any term of this Agreement.

In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this Agreement or any default, which may then exist on the part of the SYMPHONY. Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of the SYMPHONY the repayment to the COUNTY of any funds disbursed to the SYMPHONY under this Agreement which in the judgment of the COUNTY were not expended in accordance with the terms of this Agreement. The SYMPHONY shall promptly refund any such funds upon demand. In addition to immediate suspension or termination, the COUNTY may impose any other remedies available at law, in equity, or otherwise specified in this Agreement

9. **INSURANCE.** SYMPHONY, in order to protect COUNTY and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of SYMPHONY's actions in connection with the performance of SYMPHONY's obligations, as required in this Agreement, shall secure and maintain insurance as described below. SYMPHONY shall not perform any work under this Agreement until SYMPHONY has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the COUNTY's authorized insurance representative, Insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, SYMPHONY shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon. The SYMPHONY shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. SYMPHONY shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by SYMPHONY or COUNTY as an additional insured.
 - a. **Workers' Compensation and Employers Liability Insurance Requirement** -- In the event SYMPHONY has employees who may perform any services pursuant to this Agreement, SYMPHONY shall submit written proof that SYMPHONY is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. SYMPHONY shall require any sub-contractors to provide workers' compensation for all of the subcontractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by SYMPHONY. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, SYMPHONY shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered. SYMPHONY shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.
 - b. **Liability Insurance Requirements:**
 - (1) SYMPHONY shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:
 - (a) Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement

with the COUNTY), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of SYMPHONY's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. SYMPHONY shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.

- (b) Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence.
 - (c) Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required services under this Agreement, with coverage equal to the policy limits, which shall not be less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
- (2) The Commercial General Liability and Automobile liability Insurance required in this subparagraph b. shall include an endorsement naming the COUNTY and COUNTY's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options:
- (a) on ISO form CG 20 10 11 85; or
 - (b) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or
 - (c) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.
- (3) Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to COUNTY and must be approved by the COUNTY Risk Manager.
- (4) If any of the insurance coverages required under this Agreement is written on a claims-made basis, SYMPHONY, at SYMPHONY's option, shall either
- (a) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement;
 - (b) purchase an extended reporting period of not less than three (3) years following the termination of this Agreement; or
 - (c) acquire a full prior acts provision on any renewal or replacement policy.

- c. Cancellation of Insurance -- The above stated insurance coverages required to be maintained by SYMPHONY shall be maintained until the completion of all of SYMPHONY's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the SYMPHONY shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by SYMPHONY in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. SYMPHONY shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.
 - d. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-;
 - e. If SYMPHONY is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, SYMPHONY shall provide coverage equivalent to the insurance coverages and endorsements required above. The COUNTY will not accept such coverage unless the COUNTY determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by SYMPHONY is equivalent to the above-required coverages.
 - f. All insurance afforded by SYMPHONY pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by the COUNTY. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the COUNTY. A waiver of right of recovery (waiver of subrogation) is only required on Workers' Compensation policies when a SYMPHONY's personnel deliver or perform services for the COUNTY while on COUNTY property.
 - g. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve SYMPHONY for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the COUNTY from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.
 - h. Failure by SYMPHONY to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by SYMPHONY. COUNTY, at its sole option, may terminate this Agreement and obtain damages from SYMPHONY resulting from said breach. Alternatively, COUNTY may purchase such required insurance coverage, and without further notice to SYMPHONY, COUNTY shall deduct from sums due to SYMPHONY any premiums and associated costs advanced or paid by COUNTY for such insurance. If the balance of monies obligated to SYMPHONY pursuant to this Agreement are insufficient to reimburse COUNTY for the premiums and any associated costs, SYMPHONY agrees to reimburse COUNTY for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by COUNTY to take this alternative action shall not relieve SYMPHONY.
 - i. Any exception to these requirements must be approved by the COUNTY Risk Manager.
10. Any notice required or permitted to be given under this Agreement shall be in writing and shall be served by registered mail or personal service upon the other Party. When served by registered mails, service shall be conclusively deemed to be made three days after deposit with the United States

Postal Service (postage prepaid) addressed to the Party to whom such notice is to be given as follows:

Notice to COUNTY shall be made to:

Clerk of the Board of Supervisors
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301

Notice to the SYMPHONY shall be made to:

Bakersfield Symphony Orchestra
PO Box 751
Bakersfield, CA 93302

11. None of the funds provided under this Agreement shall be used for any political activity, or to further the election or defeat of any candidate for public office contrary to federal or state laws, statutes, regulations, rules or guidelines. In addition, none of the funds provided or property purchased under this Agreement shall be used for purposes designed to support or defeat legislation before the Congress of the United States of America or the Legislature of the State of California.
12. No covenant or condition of this Agreement can be waived except by the written consent of the COUNTY. Forbearance or indulgence by the COUNTY in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the SYMPHONY. The COUNTY shall be entitled to invoke any remedy available to the COUNTY under this Agreement or by law or in equity despite said forbearance or indulgence.
13. The Parties agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California. This Agreement has been entered into and is to be performed in the County of Kern. Accordingly, the Parties agree that the venue of any action relating to this Agreement shall be in the County of Kern.
14. No right or remedy herein conferred on or reserved to the COUNTY is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.
15. Each Party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
16. It is expressly understood and agreed that the enforcement of these terms and conditions, and all rights of action relating to such enforcement, shall be strictly reserved to the COUNTY and the SYMPHONY. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the COUNTY and the SYMPHONY that any such person or entity, other than the COUNTY or the SYMPHONY, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.
17. The SYMPHONY shall observe and comply with all applicable local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which are hereby made a part hereof and incorporated herein by reference.

18. This Agreement contains the entire agreement of the Parties relating to the services, rights, obligations and covenants contained herein and assumed by the Parties respectively. No inducements, representations or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect. This Agreement may be modified in writing only, signed by the Parties.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the Effective Date.

COUNTY OF KERN

BAKERSFIELD SYMPHONY ORCHESTRA

By: _____

Chairman
Board of Supervisors

“COUNTY”

DocuSigned by:
Holly Arnold
By: _____
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Holly Arnold,
Executive Director
Bakersfield Symphony Orchestra

“SYMPHONY”

APPROVED AS TO CONTENT:
County Administrative Office

APPROVED AS TO FORM:
Office of County Counsel

DocuSigned by:
James L. Zervis
By: _____
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James L. Zervis
Chief Administrative Officer

DocuSigned by:
Ann E. Garza
By: _____
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Ann Garza
Deputy County Counsel

**AGREEMENT
FOR
COURT APPOINTED SPECIAL ADVOCATE SERVICES**
(County of Kern – Court Appointed Special Advocates of Kern County)

THIS AGREEMENT (“**Agreement**”), is made effective this _____ (“**Effective Date**”), is by and between the COUNTY OF KERN, a political subdivision of the State of California (“**COUNTY**”), and the COURT APPOINTED SPECIAL ADVOCATES OF KERN COUNTY, a California nonprofit corporation (“**CASA**”). COUNTY and CASA are referred to herein individually as “**Party**” and collectively as “**Parties**”.

RECITALS:

The Board of Supervisors of the COUNTY may enter into agreements with organizations for the purpose of benefiting Kern County residents.

CASA is a volunteer advocate for children placed under the protection of the court, and conducts individual investigations of the children’s circumstances, reporting findings to the Juvenile Court of Kern County (“**Court**”).

CASA assists the Court in making decisions with respect to children under the jurisdiction of the Court.

Funds were appropriated in the Fiscal Year 2023-24 County Budget in the sum of Sixty-Five Thousand (\$65,000) Dollars to be used for training advocates that will represent children.

CASA is a program providing valuable services to the citizens of Kern County.

NOW, THEREFORE, the Parties agree as follows:

1. During the term beginning July 1, 2023 and ending June 30, 2024, CASA will provide the following services for the benefit of the citizens of Kern County:
 - a. To recruit, screen, train and supervise CASA volunteers;
 - b. To act as an objective observer and reporter on behalf of foster youth to the Court;
 - c. To advocate for foster youth when services are needed or should be altered;
 - d. To serve as a mentor and a positive role model for these children.
2. In full consideration for all services rendered by CASA, COUNTY agrees to pay and CASA agrees to accept the sum of Sixty-Five Thousand (\$65,000) Dollars.
3. CASA shall be solely responsible for all costs and expenses related to the provision of services under this Agreement. COUNTY’S sole obligation under and pursuant to the terms and provisions of this Agreement shall be the payment to CASA as specified in **Paragraph 2**.
4. In the performance of all services under this Agreement, CASA shall be, and acknowledges that it is, in fact and law, an independent contractor and not an agent or employee of the COUNTY. CASA has and retains the right to exercise full supervision and control of the manner and methods of providing services to the COUNTY under this Agreement. CASA retains full supervision and

control over the employment, direction, compensation and discharge of all persons assisting CASA in the provision of services under this Agreement. With respect to CASA employees, CASA shall be solely responsible for the payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, whether federal, state or local, and compliance with any and all other laws regulating employment..

5. CASA agrees to maintain and make available to the COUNTY accurate books and records relative to all of its activities under this Agreement. CASA shall permit the COUNTY to audit, examine and make excerpts and transcripts from such records, and to conduct audits of all invoices, materials, or other data related to all other matters covered by this Agreement. CASA shall maintain such data and records in an accessible location and condition for a period of not less than three years from the conclusion of the term specified in **Paragraph 1**.
6. CASA agrees to indemnify, defend and hold harmless the COUNTY and the COUNTY'S Board members, agents, elected and appointed officials and officers, employees, volunteers and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs and expenses, of whatever kind or nature (including, but not limited to, reasonable attorneys' fees of counsel retained by the COUNTY, expert fees, costs of staff time and investigation costs) which arise out of or are in any way connected with any negligent or willful act or omission of CASA or its officers, agents, employees, independent contractors, sub-contractors of any tier or authorized representatives arising out of this Agreement. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of CASA; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of CASA by any person or entity. CASA shall also indemnify COUNTY from any and all liability or damages incurred by COUNTY from any improper expenditure of funds by CASA.
7. It is understood that CASA, in CASA's performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has no authority to bind the COUNTY to any agreements or undertakings.
8. The COUNTY may immediately suspend or terminate this Agreement, in whole or in part, where in the determination of the COUNTY there is:
 - a. an illegal or improper use of the funds provided by the COUNTY; or
 - b. a failure to comply with any term of this Agreement.

In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this Agreement or any default, which may then exist on the part of CASA. Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of CASA the repayment to the COUNTY of any funds disbursed to CASA under this Agreement which in the judgment of the COUNTY were not expended in accordance with the terms of this Agreement. CASA shall promptly refund any such funds upon demand. In addition to immediate suspension or termination, the COUNTY may impose any other remedies available at law, in equity, or otherwise specified in this Agreement.

9. **INSURANCE.** CASA, in order to protect COUNTY and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of CASA's actions in connection with the performance of CASA's obligations, as required in this Agreement, shall secure and maintain insurance as described below. CASA shall not perform any work under this Agreement until CASA has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the COUNTY's authorized insurance representative, Insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, CASA shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon. The CASA shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. CASA shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by CASA or COUNTY as an additional insured.
- a. **Workers' Compensation and Employers Liability Insurance Requirement --** In the event CASA has employees who may perform any services pursuant to this Agreement, CASA shall submit written proof that CASA is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code.

CASA shall require any sub-contractors to provide workers' compensation for all of the sub-contractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by CASA. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, CASA shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered.

CASA shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

- b. **Liability Insurance Requirements:**

- (1) CASA shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:
- (a) **Commercial General Liability Insurance** including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the COUNTY), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of CASA's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. CASA shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.

- (b) Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence.
 - (c) Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required services under this Agreement, with coverage equal to the policy limits, which shall not be less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
 - (2) The Commercial General Liability and Automobile liability Insurance required in this subparagraph b. shall include an endorsement naming the COUNTY and COUNTY's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.
 - (3) Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to COUNTY and must be approved by the COUNTY Risk Manager.
 - (4) If any of the insurance coverages required under this Agreement is written on a claims-made basis, CASA, at CASA's option, shall either (i) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than three (3) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.
- c. Cancellation of Insurance -- The above stated insurance coverages required to be maintained by CASA shall be maintained until the completion of all of CASA's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the CASA shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by CASA in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. CASA shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.
 - d. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII. Any exception to these requirements must be approved by the COUNTY Risk Manager.
 - e. If CASA is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, CASA shall provide coverage equivalent to the insurance coverages and endorsements required above. The COUNTY will not accept such coverage unless the COUNTY determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by CASA is equivalent to the above-required coverages.

- f. All insurance afforded by CASA pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by the COUNTY. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the COUNTY. A waiver of right of recovery (waiver of subrogation) is only required on Workers' Compensation policies when a CASA's personnel deliver or perform services for the COUNTY while on COUNTY property.
 - g. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve CASA for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the COUNTY from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.
 - h. Failure by CASA to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by CASA.
10. Any notice required or permitted to be given under this Agreement shall be in writing and shall be served by registered mail or personal service upon the other Party. When served by registered mail, service shall be conclusively deemed to be made three days after deposit with the United States Postal Service (postage prepaid) addressed to the Party to whom such notice is to be given as follows:

Notice to COUNTY shall be made to:

Clerk of the Board of Supervisors
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301

Notice to CASA shall be made to:

Court Appointed Special Advocates of Kern County
1717 Columbus Street
Bakersfield, CA 93305

- 11. None of the funds provided under this Agreement shall be used for any political activity, or to further the election or defeat of any candidate for public office contrary to federal or state laws, statutes, regulations, rules or guidelines. In addition, none of the funds provided or property purchased under this Agreement shall be used for purposes designed to support or defeat legislation before the Congress of the United States of America or the Legislature of the State of California.
- 12. No covenant or condition of this Agreement can be waived except by the written consent of the COUNTY. Forbearance or indulgence by the COUNTY in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by CASA. CASA shall be entitled to invoke any remedy available to the COUNTY under this Agreement or by law or in equity despite said forbearance or indulgence.
- 13. The Parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California. This Agreement has been entered into and is to be performed in the County of Kern. Accordingly, the Parties agree that the venue of any action relating to this Agreement shall be in the County of Kern.

14. No right or remedy herein conferred on or reserved to the COUNTY is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.
15. Each Party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
16. It is expressly understood and agreed that the enforcement of these terms and conditions, and all rights of action relating to such enforcement, shall be strictly reserved to the COUNTY and CASA. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the COUNTY and CASA that any such person or entity, other than the COUNTY or CASA, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.
17. CASA shall observe and comply with all applicable local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which are hereby made a part hereof and incorporated herein by reference.
18. This Agreement contains the entire agreement of the parties relating to the services, rights, obligations and covenants contained herein and assumed by the parties respectively. No inducements, representations or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect. This Agreement may be modified in writing only, signed by the parties.


THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the Effective Date.

COUNTY OF KERN


COURT APPOINTED SPECIAL ADVOCATES


By: _____
Chairman
Board of Supervisors
"COUNTY"

DocuSigned by:

By: _____
AG55667B5EF7429...
Ashley Vorhees, Executive Director
Court Appointed Special Advocates
"CASA"

APPROVED AS TO CONTENT:
County Administrative Office

APPROVED AS TO FORM:
Office of County Counsel

DocuSigned by:

By: _____
431E663B06B9499...
James L. Zervis
Chief Administrative Officer

DocuSigned by:

By: _____
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Ann Garza
Deputy County Counsel

**AGREEMENT
FOR
EDUCATION AND LITERACY SERVICES**
(County of Kern – Kern Literacy Council)

THIS AGREEMENT (“**Agreement**”), is made effective this _____ (“**Effective Date**”), is by and between the COUNTY OF KERN, a political subdivision of the State of California (“**COUNTY**”), and the KERN LITERACY COUNCIL, a California nonprofit corporation (“**LITERACY COUNCIL**”). COUNTY and LITERACY COUNCIL are referred to herein individually as “**Party**” and collectively as “**Parties**”.

RECITALS:

The Board of Supervisors of the COUNTY may enter into agreements with organizations for the purpose of benefiting Kern County residents.

LITERACY COUNCIL is a non-profit agency dedicated to improving the quality of life of Kern citizens by teaching individuals to read, write and speak English.

Funds were appropriated in the Fiscal Year 2023-24 County Budget in the sum of Ten Thousand (\$10,000) Dollars to be used for improving literacy and numeracy in the local community.

LITERACY COUNCIL is a program providing valuable services to the citizens of Kern County.

NOW, THEREFORE, the Parties agree as follows:

1. During the term beginning July 1, 2023 and ending June 30, 2024, LITERACY COUNCIL will provide the following services for the benefit of the citizens of Kern County:
 - a. Purchase equipment and materials to ensure success through increased outreach and programming;
 - b. With a focus on reaching more families in outlying areas of Kern County, continue to expand virtual and hybrid program services;
 - c. Expand the tutoring network program to all Kern County Branch Library locations.
2. In full consideration for all services rendered by LITERACY COUNCIL, COUNTY agrees to pay and LITERACY COUNCIL agrees to accept the sum of Ten Thousand (\$10,000) Dollars.
3. LITERACY COUNCIL shall be solely responsible for all costs and expenses related to the provision of services under this Agreement. COUNTY’S sole obligation under and pursuant to the terms and provisions of this Agreement shall be the payment to LITERACY COUNCIL as specified in **Paragraph 2**.
4. In the performance of all services under this Agreement, LITERACY COUNCIL shall be, and acknowledges that it is, in fact and law, an independent contractor and not an agent or employee of the COUNTY. LITERACY COUNCIL has and retains the right to exercise full supervision and control of the manner and methods of providing services to the COUNTY under this Agreement. LITERACY COUNCIL retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting LITERACY COUNCIL in the provision of services

under this Agreement. With respect to LITERACY COUNCIL employees, the Center shall be solely responsible for the payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, whether federal, state or local, and compliance with any and all other laws regulating employment..

5. LITERACY COUNCIL agrees to maintain and make available to the COUNTY accurate books and records relative to all of its activities under this Agreement. LITERACY COUNCIL shall permit the COUNTY to audit, examine and make excerpts and transcripts from such records, and to conduct audits of all invoices, materials, or other data related to all other matters covered by this Agreement. LITERACY COUNCIL shall maintain such data and records in an accessible location and condition for a period of not less than three years from the conclusion of the term specified in **Paragraph 1.**
6. LITERACY COUNCIL agrees to indemnify, defend and hold harmless the COUNTY and the COUNTY's Board members, agents, elected and appointed officials and officers, employees, volunteers and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs and expenses, of whatever kind or nature (including, but not limited to, reasonable attorneys' fees of counsel retained by the COUNTY, expert fees, costs of staff time and investigation costs) which arise out of or are in any way connected with any negligent or willful act or omission of LITERACY COUNCIL or its officers, agents, employees, independent contractors, sub-contractors of any tier or authorized representatives arising out of this Agreement. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of LITERACY COUNCIL; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of LITERACY COUNCIL by any person or entity. LITERACY COUNCIL shall also indemnify COUNTY from any and all liability or damages incurred by COUNTY from any improper expenditure of funds by LITERACY COUNCIL.
7. It is understood that LITERACY COUNCIL, in LITERACY COUNCIL's performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has no authority to bind the COUNTY to any agreements or undertakings.
8. The COUNTY may immediately suspend or terminate this Agreement, in whole or in part, where in the determination of the COUNTY there is:
 - a. an illegal or improper use of the funds provided by the COUNTY; or
 - b. a failure to comply with any term of this Agreement.

In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this Agreement or any default, which may then exist on the part of LITERACY COUNCIL. Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of LITERACY COUNCIL the repayment to the COUNTY of any funds disbursed to LITERACY COUNCIL under this Agreement which in the judgment of the COUNTY were not expended in accordance with the terms of this Agreement. LITERACY COUNCIL shall promptly refund any such funds upon demand. In addition to immediate suspension or termination, the COUNTY may impose any other remedies available at law, in equity, or otherwise specified in this Agreement.

9. Insurance. COUNCIL, in order to protect COUNTY and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of COUNCIL's actions in connection with the performance of COUNCIL's obligations, as required in this Agreement, shall secure and maintain insurance as described below. COUNCIL shall not perform any work under this Agreement until COUNCIL has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the COUNTY's authorized insurance representative, Insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, COUNCIL shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon. The COUNCIL shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. COUNCIL shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by COUNCIL or COUNTY as an additional insured.
- a. Workers' Compensation and Employers Liability Insurance Requirement -- In the event COUNCIL has employees who may perform any services pursuant to this Agreement, COUNCIL shall submit written proof that COUNCIL is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. COUNCIL shall require any sub-contractors to provide workers' compensation for all of the subcontractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by COUNCIL. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, COUNCIL shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered. COUNCIL shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.
- b. Liability Insurance Requirements:
- (1) COUNCIL shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:
- (a) Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the COUNTY), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of COUNCIL's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. COUNCIL shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.
- (b) Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased,

hired and non-owned vehicles used in the performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence.

- (c) Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required services under this Agreement, with coverage equal to the policy limits, which shall not be less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
- (2) The Commercial General Liability and Automobile liability Insurance required in this subparagraph b. shall include an endorsement naming the COUNTY and COUNTY's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.
 - (3) Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to COUNTY and must be approved by the COUNTY Risk Manager.
 - (4) If any of the insurance coverages required under this Agreement is written on a claims-made basis, COUNCIL, at COUNCIL's option, shall either
 - (a) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement;
 - (b) purchase an extended reporting period of not less than three (3) years following the termination of this Agreement; or
 - (c) acquire a full prior acts provision on any renewal or replacement policy.
- c. Cancellation of Insurance -- The above stated insurance coverages required to be maintained by COUNCIL shall be maintained until the completion of all of COUNCIL's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the COUNCIL shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by COUNCIL in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. COUNCIL shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.
 - d. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII. Any exception to these requirements must be approved by the COUNTY Risk Manager.
 - e. If COUNCIL is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, COUNCIL shall provide coverage equivalent to the insurance coverages and endorsements required above. The COUNTY will not accept such coverage unless the

- COUNTY determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by COUNCIL is equivalent to the above-required coverages.
- f. All insurance afforded by COUNCIL pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by the COUNTY. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the COUNTY. A waiver of right of recovery (waiver of subrogation) is only required on Workers' Compensation policies when a COUNCIL's personnel deliver or perform services for the COUNTY while on COUNTY property.
 - g. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve COUNCIL for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the COUNTY from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.
 - h. Failure by COUNCIL to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by COUNCIL.
10. Any notice required or permitted to be given under this Agreement shall be in writing and shall be served by registered mail or personal service upon the other Party. When served by registered mails, service shall be conclusively deemed to be made three days after deposit with the United States Postal Service (postage prepaid) addressed to the Party to whom such notice is to be given as follows:

Notice to COUNTY shall be made to:

Clerk of the Board of Supervisors
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301

Notice to LITERACY COUNCIL shall be made to:

Kern Literacy Council
331 18th Street
Bakersfield, CA 93301

- 11. None of the funds provided under this Agreement shall be used for any political activity, or to further the election or defeat of any candidate for public office contrary to federal or state laws, statutes, regulations, rules or guidelines. In addition, none of the funds provided or property purchased under this Agreement shall be used for purposes designed to support or defeat legislation before the Congress of the United States of America or the Legislature of the State of California.
- 12. No covenant or condition of this Agreement can be waived except by the written consent of the COUNTY. Forbearance or indulgence by the COUNTY in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by LITERACY COUNCIL. LITERACY COUNCIL shall be entitled to invoke any remedy available to the COUNTY under this Agreement or by law or in equity despite said forbearance or indulgence.
- 13. The Parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California. This Agreement has been entered into and is to be performed in the

County of Kern. Accordingly, the Parties agree that the venue of any action relating to this Agreement shall be in the County of Kern.

14. No right or remedy herein conferred on or reserved to the COUNTY is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.
15. Each Party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
16. It is expressly understood and agreed that the enforcement of these terms and conditions, and all rights of action relating to such enforcement, shall be strictly reserved to the COUNTY and LITERACY COUNCIL. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the COUNTY and LITERACY COUNCIL that any such person or entity, other than the COUNTY or LITERACY COUNCIL, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.
17. LITERACY COUNCIL shall observe and comply with all applicable local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which are hereby made a part hereof and incorporated herein by reference.
18. This Agreement contains the entire agreement of the parties relating to the services, rights, obligations and covenants contained herein and assumed by the parties respectively. No inducements, representations or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect. This Agreement may be modified in writing only, signed by the parties.


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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the Effective Date.

COUNTY OF KERN

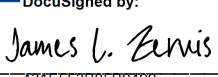
KERN LITERACY COUNCIL

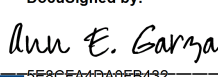
By: _____
Chairman
Board of Supervisors
"COUNTY"

DocuSigned by:

By: _____
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Ian Anderson, Executive Director
Kern Literacy Council
"LITERACY COUNCIL"

APPROVED AS TO CONTENT:
County Administrative Office

APPROVED AS TO FORM:
Office of County Counsel

DocuSigned by:

By: _____
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James L. Zervis
Chief Administrative Officer

DocuSigned by:

By: _____
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Ann Garza
Deputy County Counsel

**AGREEMENT
FOR
VALLEY FEVER TREATMENT**
(County of Kern – Kern Medical Center Foundation)

THIS AGREEMENT (“**Agreement**”), made effective this _____ (“**Effective Date**”), is by and between the COUNTY OF KERN, a political subdivision of the State of California (“**COUNTY**”), and KERN MEDICAL CENTER FOUNDATION, a California nonprofit public benefit corporation (“**FOUNDATION**”). COUNTY and FOUNDATION are referred to herein individually as “**Party**” and collectively as “**Parties**”.

RECITALS:

The Board of Supervisors of the COUNTY may enter into agreements with organizations for the purpose of improving the health of the citizens of Kern County, through developing a vaccine to prevent the fungal disease known as Valley Fever or Cocci.

The Board of Supervisors desires to encourage such research for the betterment of the health of the citizens of Kern County.

Funds were appropriated in the Fiscal Year 2023-24 County Budget in the sum of Twenty-Three Thousand (\$23,000) Dollars to be dispersed to FOUNDATION to assist FOUNDATION in funding the development of a Valley Fever vaccine or medicine.

NOW, THEREFORE, the Parties agree as follows:

1. During the term beginning July 1, 2023 and ending June 30, 2024, FOUNDATION shall use the funds provided under this Agreement to support the Valley Fever patient database for the benefit of Kern County residents. This includes research for anti-fungal medication for treatment, improved diagnostics, and work towards a Valley Fever vaccine.
2. In full consideration for all services rendered by FOUNDATION, COUNTY agrees to pay, and FOUNDATION agrees to accept, the sum of Twenty-Three Thousand (\$23,000) Dollars.
3. FOUNDATION shall be solely responsible for all costs and expenses of raising monies in support of the development of a vaccine. COUNTY’s sole obligation under and pursuant to the terms and provisions of this Agreement shall be the payment as specified in **Paragraph 2**.
4. In the performance of all services under this Agreement, FOUNDATION shall be, and acknowledges that it is, in fact and law, an independent contractor and not an agent or employee of the COUNTY. FOUNDATION has and retains the right to exercise full supervision and control over the manner and methods of providing services to the COUNTY under this Agreement. FOUNDATION retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting FOUNDATION in the provision of services under this Agreement. With respect to FOUNDATION’s employees, FOUNDATION shall be solely responsible for the payment of wages, benefits and other compensation compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, whether federal State or local, and compliance with any and all other laws regulating employment.
5. FOUNDATION agrees to maintain and make available to the COUNTY accurate books and records relative to all of its activities under this Agreement. FOUNDATION shall permit the

COUNTY to audit, examine and make excerpts and transcripts from such records, and to conduct audits of all invoices, materials, or other data related to all other matters covered by this Agreement. FOUNDATION shall maintain such data and records in an accessible location and condition for a period of not less than three years from the conclusion of the term specified in **Paragraph 1**.

6. FOUNDATION agrees to indemnify, defend and hold harmless, the COUNTY, the COUNTY's Board members, agents, elected and appointed officials and officers, employees, volunteers and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs and expenses, of whatever kind or nature (including, but not limited to, reasonable attorneys' fees of counsel retained by COUNTY, expert fees, costs of staff time and investigation costs) which arise out of or are in any way connected with any negligent or willful act or omission of FOUNDATION or its officers, agents employees, independent contractors, sub-contractors of any tier or authorized representatives arising out of this Agreement. Without limiting the generality of the forgoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of FOUNDATION; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of FOUNDATION by any person or entity. FOUNDATION; and any workers' compensation claim or suite arising from or connected with any services performed pursuant to this Agreement on behalf of FOUNDATION by any person or entity. FOUNDATION shall also indemnify COUNTY from any and all liability or damages incurred by COUNTY from any improper expenditure of funds by FOUNDATION.
7. It is understood that FOUNDATION, in FOUNDATION's performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has no authority to bind the COUNTY to any agreements or undertakings.
8. The COUNTY may immediately suspend or terminate this Agreement, in whole or in part where in the determination of the COUNTY there is:
 - a. An illegal or improper use of the funds provided by the COUNTY; or
 - b. A failure to comply with any term of this Agreement.

In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this Agreement or any default, which may then exist on the part of FOUNDATION. Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of FOUNDATION the repayment to the COUNTY of any funds disbursed to FOUNDATION under this Agreement which in the judgment of the COUNTY were not expended in accordance with the terms of this Agreement. FOUNDATION shall promptly refund any such funds upon demand. In addition to immediate suspension or termination, the COUNTY may impose any other remedies available at law, in equity, or otherwise specified in this Agreement.

9. Insurance. FOUNDATION, in order to protect COUNTY and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of FOUNDATION's actions in connection with the performance of FOUNDATION's obligations, as required in this Agreement, shall secure and maintain insurance as described below. FOUNDATION shall not perform any work under this Agreement until FOUNDATION has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the COUNTY's authorized insurance representative, Insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all

applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, FOUNDATION shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon. The FOUNDATION shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. FOUNDATION shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by FOUNDATION or COUNTY as an additional insured.

- a. Workers' Compensation and Employers Liability Insurance Requirement -- In the event FOUNDATION has employees who may perform any services pursuant to this Agreement, FOUNDATION shall submit written proof that FOUNDATION is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code.

FOUNDATION shall require any sub-contractors to provide workers' compensation for all of the subcontractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by FOUNDATION. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, FOUNDATION shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered.

FOUNDATION shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

- b. Liability Insurance Requirements:

- (1) FOUNDATION shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:

- (a) Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the COUNTY), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of FOUNDATION's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. FOUNDATION shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.
- (b) Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence.

- (c) Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required services under this Agreement, with coverage equal to the policy limits, which shall not be less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
- (2) The Commercial General Liability and Automobile liability Insurance required in this subparagraph b. shall include an endorsement naming the COUNTY and COUNTY's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.
- (3) Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to COUNTY and must be approved by the COUNTY Risk Manager.
- (4) If any of the insurance coverages required under this Agreement is written on a claims-made basis, FOUNDATION, at FOUNDATION's option, shall either
 - (a) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement;
 - (b) purchase an extended reporting period of not less than three (3) years following the termination of this Agreement; or
 - (c) acquire a full prior acts provision on any renewal or replacement policy.
- c. Cancellation of Insurance -- The above stated insurance coverages required to be maintained by FOUNDATION shall be maintained until the completion of all of FOUNDATION's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the FOUNDATION shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by FOUNDATION in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. FOUNDATION shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.
- d. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII. Any exception to these requirements must be approved by the COUNTY Risk Manager.
- e. The FOUNDATION is self-insured and shall provide coverage equivalent to the insurance coverages required above. The COUNTY will not accept such coverage unless the COUNTY determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by FOUNDATION is equivalent to the above-required coverages.
- f. All insurance afforded by FOUNDATION pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by the COUNTY.

- g. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve FOUNDATION for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the COUNTY from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.
 - h. Failure by FOUNDATION to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by FOUNDATION.
10. Any notice required or permitted to be given under this Agreement shall be in writing and shall be served by registered mail or personal service upon the other Party. When served by registered mails, service shall be conclusively deemed to be made three days after deposit with the United States Postal Service (postage prepaid) addressed to the Party to whom such notice is to be given as follows:

Notice to COUNTY shall be made to:

Clerk of the Board of Supervisors
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301

Notice to FOUNDATION shall be made to:

Kern Medical Center Foundation
3511 Union Ave.
Bakersfield, CA 93305

- 11. None of the funds provided under this Agreement shall be used for any political activity, or to further the election or defeat of any candidate for public office contrary to federal or State Laws, statutes, regulations, rules or guidelines. In addition, none of the funds provided or property purchased under this Agreement shall be used for purposes designed to support or defeat legislation before the Congress of the United States of America or the Legislature of the State of California.
- 12. Forbearance or indulgence by the COUNTY in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by FOUNDATION. The COUNTY shall be entitled to invoke any remedy available to the COUNTY under this Agreement or by law or in equity despite said forbearance or indulgence.
- 13. The Parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California. This Agreement has been entered into and is to be performed in the County of Kern. Accordingly, the Parties agree that the venue of any action relating to this Agreement shall be in the County of Kern.
- 14. No right or remedy herein conferred on or reserved to a party is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.

15. Each Party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
16. It is expressly understood and agreed that the enforcement of these terms and conditions, and all rights of action relating to such enforcement, shall be strictly reserved to the COUNTY and FOUNDATION. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the COUNTY and FOUNDATION that any such person or entity, other than the COUNTY or FOUNDATION, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.
17. FOUNDATION shall observe and comply with all applicable local, State and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which are hereby made a part hereof and incorporated herein by reference.

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the Effective Date.

COUNTY OF KERN

KERN MEDICAL CENTER FOUNDATION

By: _____
Chairman
Board of Supervisors
"COUNTY"

DocuSigned by:
By: Martha Leon
B5D72B26B30E4CA...
Martha Leon, President
Kern Medical Center Foundation
"FOUNDATION"

APPROVED AS TO CONTENT:
County Administrative Office

APPROVED AS TO FORM:
Legal Services Department

DocuSigned by:
By: James L. Zervis
431E553B05B9499...
James L. Zervis
Chief Administrative Officer

DocuSigned by:
By: Shannon Hochstein
2424C405432A448...
Shannon Hochstein
Hospital Counsel

APPROVED AS TO FORM:
Office of County Counsel

DocuSigned by:
By: Ann E. Garza
5E8CFA4DA0FB432...
Ann Garza
Deputy County Counsel

**AGREEMENT
FOR
EMERGENCY VOLUNTEER CENTER SERVICES**
(County of Kern – Volunteer Center of Kern County, Inc.)

THIS AGREEMENT (“**Agreement**”), is made effective this _____ (“**Effective Date**”), is by and between the COUNTY OF KERN, a political subdivision of the State of California (“**COUNTY**”), and the VOLUNTEER CENTER OF KERN COUNTY, INC., a California non-profit corporation (“**VOLUNTEER CENTER**”). COUNTY and VOLUNTEER CENTER are referred to herein individually as “**Party**” and collectively as “**Parties**”.

RECITALS:

The Board of Supervisors of the COUNTY may enter into agreements with organizations for the purpose of benefiting Kern County residents.

VOLUNTEER CENTER is a non-profit agency dedicated to serving the local community through volunteer services.

Funds were appropriated in the Fiscal Year 2023-24 County Budget in the sum of Five Thousand (\$5,000) Dollars to be used for training individuals designated to staff emergency volunteer centers.

VOLUNTEER CENTER is a program providing valuable services to the citizens of Kern County.

NOW, THEREFORE, the Parties agree as follows:

1. During the term beginning July 1, 2023 and ending June 30, 2024, VOLUNTEER CENTER will provide training and materials necessary to Kern County department supervisors and employees designated to operate and staff an Emergency Volunteer Center in the event of disaster.
2. In full consideration for all services rendered by VOLUNTEER CENTER, COUNTY agrees to pay and VOLUNTEER CENTER agrees to accept the sum of Five Thousand (\$5,000) Dollars.
3. VOLUNTEER CENTER shall be solely responsible for all costs and expenses related to the provision of services under this Agreement. COUNTY’s sole obligation under and pursuant to the terms and provisions of this Agreement shall be the payment to VOLUNTEER CENTER as specified in **Paragraph 2**.
4. In the performance of all services under this Agreement, VOLUNTEER CENTER shall be, and acknowledges that it is, in fact and law, an independent contractor and not an agent or employee of the COUNTY. VOLUNTEER CENTER has and retains the right to exercise full supervision and control of the manner and methods of providing services to the COUNTY under this Agreement. VOLUNTEER CENTER retains full supervision and control over the employment, direction, compensation and discharge of all persons assisting VOLUNTEER CENTER in the provision of services under this Agreement. With respect to VOLUNTEER CENTER employees, the Center shall be solely responsible for the payment of wages, benefits and other compensation, compliance with all occupational safety, welfare and civil rights laws, tax withholding and payment of employee taxes, whether federal, state or local, and compliance with any and all other laws regulating employment.

5. VOLUNTEER CENTER agrees to maintain and make available to the COUNTY accurate books and records relative to all of its activities under this Agreement. VOLUNTEER CENTER shall permit the COUNTY to audit, examine and make excerpts and transcripts from such records, and to conduct audits of all invoices, materials, or other data related to all other matters covered by this Agreement. VOLUNTEER CENTER shall maintain such data and records in an accessible location and condition for a period of not less than three years from the conclusion of the term specified in **Paragraph 1**.
6. VOLUNTEER CENTER agrees to indemnify, defend and hold harmless the COUNTY and the COUNTY's Board members, agents, elected and appointed officials and officers, employees, volunteers and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs and expenses, of whatever kind or nature (including, but not limited to, reasonable attorneys' fees of counsel retained by the COUNTY, expert fees, costs of staff time and investigation costs) which arise out of or are in any way connected with any negligent or willful act or omission of VOLUNTEER CENTER or its officers, agents, employees, independent contractors, sub-contractors of any tier or authorized representatives arising out of this Agreement. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of VOLUNTEER CENTER; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of VOLUNTEER CENTER by any person or entity. VOLUNTEER CENTER shall also indemnify COUNTY from any and all liability or damages incurred by COUNTY from any improper expenditure of funds by VOLUNTEER CENTER.
7. It is understood that VOLUNTEER CENTER, in VOLUNTEER CENTER's performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has no authority to bind the COUNTY to any agreements or undertakings.
8. The COUNTY may immediately suspend or terminate this Agreement, in whole or in part, where in the determination of the COUNTY there is:
 - a. an illegal or improper use of the funds provided by the COUNTY; or
 - b. a failure to comply with any term of this Agreement.

In no event shall any payment by the COUNTY constitute a waiver by the COUNTY of any breach of this Agreement or any default, which may then exist on the part of VOLUNTEER CENTER. Neither shall such payment impair or prejudice any remedy available to the COUNTY with respect to the breach or default. The COUNTY shall have the right to demand of VOLUNTEER CENTER the repayment to the COUNTY of any funds disbursed to VOLUNTEER CENTER under this Agreement which in the judgment of the COUNTY were not expended in accordance with the terms of this Agreement. VOLUNTEER CENTER shall promptly refund any such funds upon demand. In addition to immediate suspension or termination, the COUNTY may impose any other remedies available at law, in equity, or otherwise specified in this Agreement.

9. Insurance. VOLUNTEER CENTER, in order to protect COUNTY and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of VOLUNTEER CENTER's actions in connection with the performance of VOLUNTEER CENTER's obligations, as required in this Agreement, shall secure and maintain insurance as described below. VOLUNTEER CENTER shall not perform any work under this Agreement until VOLUNTEER CENTER has obtained all insurance required under this section

and the required certificates of insurance and all required endorsements have been filed with the COUNTY's authorized insurance representative, Insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, VOLUNTEER CENTER shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon. The VOLUNTEER CENTER shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. VOLUNTEER CENTER shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by VOLUNTEER CENTER or COUNTY as an additional insured.

- a. Workers' Compensation and Employers Liability Insurance Requirement -- In the event VOLUNTEER CENTER has employees who may perform any services pursuant to this Agreement, VOLUNTEER CENTER shall submit written proof that VOLUNTEER CENTER is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code.

VOLUNTEER CENTER shall require any sub-contractors to provide workers' compensation for all of the subcontractors' employees, unless the sub-contractors' employees are covered by the insurance afforded by VOLUNTEER CENTER. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, VOLUNTEER CENTER shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered.

VOLUNTEER CENTER shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

- b. Liability Insurance Requirements:

- (1) VOLUNTEER CENTER shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:

- (a) Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the COUNTY), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of VOLUNTEER CENTER's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. VOLUNTEER CENTER shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.

- (b) Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence.
 - (c) Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required services under this Agreement, with coverage equal to the policy limits, which shall not be less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
 - (2) The Commercial General Liability and Automobile liability Insurance required in this subparagraph b. shall include an endorsement naming the VOLUNTEER COUNTY and COUNTY's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.
 - (3) Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to VOLUNTEER COUNTY and must be approved by the COUNTY Risk Manager.
 - (4) If any of the insurance coverages required under this Agreement is written on a claims-made basis, VOLUNTEER CENTER, at VOLUNTEER CENTER's option, shall either
 - (a) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement;
 - (b) purchase an extended reporting period of not less than three (3) years following the termination of this Agreement; or
 - (c) acquire a full prior acts provision on any renewal or replacement policy.
- c. Cancellation of Insurance -- The above stated insurance coverages required to be maintained by VOLUNTEER CENTER shall be maintained until the completion of all of VOLUNTEER CENTER's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the VOLUNTEER CENTER shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by VOLUNTEER CENTER in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. VOLUNTEER CENTER shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.
- d. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII. Any exception to these requirements must be approved by the COUNTY Risk Manager.

- e. If VOLUNTEER CENTER is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, VOLUNTEER CENTER shall provide coverage equivalent to the insurance coverages and endorsements required above. The COUNTY will not accept such coverage unless the COUNTY determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by VOLUNTEER CENTER is equivalent to the above-required coverages.
 - f. All insurance afforded by VOLUNTEER CENTER pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by the COUNTY. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the COUNTY. A waiver of right of recovery (waiver of subrogation) is only required on Workers' Compensation policies when a VOLUNTEER CENTER's personnel deliver or perform services for the COUNTY while on COUNTY property.
 - g. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve VOLUNTEER CENTER for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the COUNTY from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.
 - h. Failure by VOLUNTEER CENTER to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by VOLUNTEER CENTER.
10. Any notice required or permitted to be given under this Agreement shall be in writing and shall be served by registered mail or personal service upon the other Party. When served by registered mails, service shall be conclusively deemed to be made three days after deposit with the United States Postal Service (postage prepaid) addressed to the Party to whom such notice is to be given as follows:

Notice to COUNTY shall be made to:

Clerk of the Board of Supervisors
1115 Truxtun Avenue, 5th Floor
Bakersfield, CA 93301

Notice to VOLUNTEER CENTER shall be made to:

Volunteer Center of Kern County, Inc.
1311 Eye Street
Bakersfield, CA 93301

11. None of the funds provided under this Agreement shall be used for any political activity, or to further the election or defeat of any candidate for public office contrary to federal or state laws, statutes, regulations, rules or guidelines. In addition, none of the funds provided or property purchased under this Agreement shall be used for purposes designed to support or defeat legislation before the Congress of the United States of America or the Legislature of the State of California.

12. No covenant or condition of this Agreement can be waived except by the written consent of the COUNTY. Forbearance or indulgence by the COUNTY in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by VOLUNTEER CENTER. VOLUNTEER CENTER shall be entitled to invoke any remedy available to the COUNTY under this Agreement or by law or in equity despite said forbearance or indulgence.
13. The Parties hereto agree that the provisions of this Agreement will be construed pursuant to the laws of the State of California. This Agreement has been entered into and is to be performed in the County of Kern. Accordingly, the Parties agree that the venue of any action relating to this Agreement shall be in the County of Kern.
14. No right or remedy herein conferred on or reserved to the COUNTY is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.
15. Each Party has full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
16. It is expressly understood and agreed that the enforcement of these terms and conditions, and all rights of action relating to such enforcement, shall be strictly reserved to the COUNTY and VOLUNTEER CENTER. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the COUNTY and VOLUNTEER CENTER that any such person or entity, other than the COUNTY or VOLUNTEER CENTER, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.
17. VOLUNTEER CENTER shall observe and comply with all applicable local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which are hereby made a part hereof and incorporated herein by reference.
18. This Agreement contains the entire agreement of the parties relating to the services, rights, obligations and covenants contained herein and assumed by the parties respectively. No inducements, representations or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect. This Agreement may be modified in writing only, signed by the parties.

THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed on the Effective Date.

COUNTY OF KERN

VOLUNTEER CENTER OF KERN COUNTY

By: _____
Chairman
Board of Supervisors
"COUNTY"

DocuSigned by:
Lori Honea
By: _____
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Lori Honea, Executive Director
Volunteer Center of Kern County, Inc.
"VOLUNTEER CENTER"

APPROVED AS TO CONTENT:
County Administrative Office

APPROVED AS TO FORM:
Office of County Counsel

DocuSigned by:
James L. Zervis
By: _____
431E553B05B9409...
James L. Zervis
Chief Administrative Officer

DocuSigned by:
Ann E. Garza
By: _____
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Ann Garza
Deputy County Counsel