

**MEMORANDUM OF AGREEMENT BETWEEN  
KERN COUNCIL OF GOVERNMENTS ACTING AS THE  
KERN MOTORIST AID AUTHORITY AND  
THE CITY OF BAKERSFIELD**

THIS MEMORANDUM OF AGREEMENT ("**Agreement**"), made and entered into this 18th day of May, 2023 ("**Execution Date**"), is by and between the City of Bakersfield, a charter city and municipal corporation, ("**CITY** ") and Kern Council of Governments acting as the Kern Motorist Aid Authority, a joint powers entity ("**KERN COG**"). City and Kern COG are referred to individually as a "Party" and collectively as the "Parties".

WITNESSETH

- A. KERN COG adopted the FY 2023-24 Overall Work Program and Financial Plan; and
- B. KERN COG acting as the Kern Motorist Aid Authority adopted a Financial Plan for operation and maintenance of a motorist aid system; and
- C. California Streets and Highways Code Section 2557(d) states that monies that exceed the amount needed for full implementation and ongoing costs to maintain and operate the motorist aid system, may be used for purposes of safety-related motorist aid projects; and
- D. Studies show that roadway hazards and obstructions, including litter and debris cause numerous accidents per year in North America; and
- E. The CITY has established a program for hazard and obstruction removal on state highways traversing the CITY; and
- F. KERN COG acting as the Kern Motorist Aid Authority is willing to provide funding to assist with hazard and obstruction removal on state highways traversing through the CITY.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

- 1. CITY shall be the lead agency for the operation of the hazard and obstruction removal program on state highways traversing through the CITY.
- 2. CITY, beginning July 1, 2023, shall submit a monthly invoice to KERN COG for funds to be used for hazard and obstruction removal on state highways in Kern County. The first invoice shall be dated after the Execution Date of this Agreement, and the final invoice shall be dated before July 26, 2024.
- 3. KERN COG shall provide CITY up to two hundred twenty-five thousand dollars (\$225,000) from funds programmed in the Kern Motorist Aid Financial Plan to pay for costs incurred by CITY in hazard and obstruction removal on state highways traversing the CITY.
- 4. CITY shall provide a written monthly report to Kern COG on the amount of hazards and obstructions removed from state highways traversing the CITY.
- 5. The term of this Agreement shall be from the Execution Date through June 30, 2024.
- 6. Either Party may, at its sole discretion, terminate this Agreement at any time by giving 30 days written notice to the other Party.
- 7. CITY shall indemnify, defend (upon written request of KERN COG) and save harmless KERN COG, its officers, agents and employees from any and all losses, damages, liability, claims or causes of action of every nature whatsoever for physical damage to or destruction

of property, including the property of KERN COG, or physical injury to or death of any person or persons, including KERN COG's officers, agents and employees, which may arise out of any act or omission of the CITY, its officers, agents, independent contractors or employees during the performance of this Agreement.

8. No waiver of a breach of any provision of this Agreement shall constitute a waiver of any other breach, or of such provision. Failure of either Party to enforce at any time, or from time-to-time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and in addition to any other remedies in law or equity.
9. Should any part, term, portion, or provision of this Agreement be finally decided to be in conflict with any law of the United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the Parties intended to enter into in the first instance.
10. This Agreement contains the entire agreement of the Parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this Agreement shall be of no force or effect excepting a subsequent modification in writing, signed by the party to be charged.
11. The terms of this Agreement shall be construed and interpreted under, and all respective rights and duties shall be governed by, the laws of the State of California.
12. Any notice or notices required or permitted to be given pursuant to this Agreement may be personally served on the other Party by the Party giving such notice or may be served by certified mail, return receipt requested, to the following addresses:

TO KERN COG:           Ahron Hakimi, Executive Director  
                              Kern Council of Governments  
                              1401 19th Street, Suite 300  
                              Bakersfield, California 93301

TO CITY:               Gregg Strakaluse  
                              Public Works Department  
                              City of Bakersfield  
                              1501 Truxtun Avenue  
                              Bakersfield, CA 93301

13. The individual executing this Agreement on behalf of each Party warrants that he/she is authorized to execute the Agreement on behalf of their agency and that the agency will be bound by the terms and conditions contained herein.
14. CITY acknowledges that CITY, and all subcontractors hired by CITY to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act ("IRCA"). CITY is and shall remain in compliance with the IRCA and shall ensure that any subcontractors hired by CITY to perform services under this Agreement are in compliance with the IRCA. In addition, CITY agrees to indemnify, defend and hold harmless KERN COG, its agents, officers and employees, from any liability, damages or causes of action arising out of or relating to any claims that CITY's employees, or the employees of any subcontractor hired by CITY, are not authorized to work in the United States for CITY or its subcontractor and/or any other claims based upon alleged IRCA violations committed by CITY or CITY's subcontractor(s).




15. CITY agrees to maintain and make available to KERN COG accurate books and records relative to all its activities under this Agreement. CITY shall permit KERN COG to audit, examine and make excerpts and transcripts from such records, and to conduct audits of all invoices, materials, and records of personnel or other data related to all other matters covered by this Agreement. CITY shall maintain such data and records in an accessible location and condition for a period of not less than three years from the date of final payment under this Agreement, or until after the conclusion of any audit, whichever occurs last. The State of California and/or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon KERN COG herein.
16. CITY shall observe and comply with all applicable state, federal, and local 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.

IN WITNESS WHEREOF, the Parties have caused this MEMORANDUM OF AGREEMENT to be executed by their respective officers and agents thereunto duly authorized as of the Execution Date.

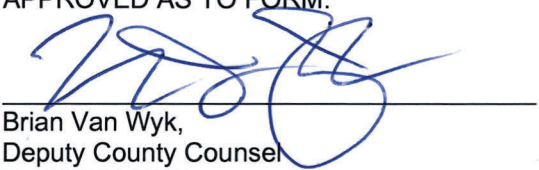
KERN COUNCIL OF GOVERNMENTS

  
Bob Smith, Chair  
"KERN COG"


APPROVED AS TO CONTENT:

  
Ahron Hakimi, Executive Director  
Kern Council of Governments


APPROVED AS TO FORM:

  
Brian Van Wyk,  
Deputy County Counsel  
For KERN COG


CITY OF BAKERSFIELD

  
Karen Goh  
City of Bakersfield  
"CITY"


APPROVED AS TO CONTENT:

  
Gregg Strakaluse, Director  
City of Bakersfield Public Works Dept.

APPROVED AS TO FORM:

  
Joshua H. Rudnick,  
Deputy City Attorney II  
City of Bakersfield

COUNTERSIGNED:

  
Randy McKeegan  
Finance Director