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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF KERN

15 **THE PEOPLE OF THE STATE OF
CALIFORNIA EX REL. ROB BONTA,
16 ATTORNEY GENERAL OF THE STATE
OF CALIFORNIA,**

17 Plaintiff,

18 v.

20 **COUNTY OF KERN,**

21 Defendant

Case No.
**COMPLAINT FOR INJUNCTIVE
RELIEF**

1 The People of the State of California, by and through Rob Bonta, Attorney General of the
2 State of California, allege on information and belief as follows:

3 **JURISDICTION AND VENUE**

4 1. This Court has jurisdiction over the subject matter of this action and the parties to this
5 action. Venue is proper in this County, as the occurrences giving rise to this action occurred in the
6 County of Kern. The Court has jurisdiction to enter the judgment sought by this Complaint.

7 **PARTIES**

8 2. Plaintiff in this action is the People of the State of California, by and through Rob
9 Bonta, the Attorney General of the State of California (“Attorney General”). The Attorney
10 General is the State’s chief law officer and has the duty to see that the State’s laws are uniformly
11 and adequately enforced for the protection of public rights and interests. (Cal. Const., art. V, sec.
12 13.)

13 3. Defendant County of Kern (referred to herein as “Defendant,” “County,” or “Kern
14 County”) is a political subdivision of the State of California, governed by a five-member Board of
15 Supervisors.

16 4. Plaintiff and Defendant may be referred to collectively herein as the “Parties.”

17 **FACTUAL BACKGROUND**

18 5. The California Constitution guarantees the right of every person to freely speak and
19 associate and to be free from laws restraining or abridging liberty of speech, and the right of the
20 people to petition government for redress of grievances, to instruct their representatives, and to
21 assemble freely for the common good (“free-speech rights,” or “free-speech activities”) (Cal.
22 Const., art. 1, secs. (2)(a), (3)(a).)

23 6. In September 2021, the Attorney General began an investigation to determine
24 whether the County had violated the free-speech or other rights of certain County contractors by
25 refusing to approve retroactive contracts with them because of their free-speech activities, and
26 whether the County engaged in a pattern and practice of violating contractors’ or employees’
27 free-speech rights or other rights in the areas of public contracting and employment.
28

1 7. The Attorney General conducted a comprehensive investigation of the
2 aforementioned matters. The investigation included review of thousands of relevant documents
3 produced by the County in response to a subpoena issued by the Attorney General; review of
4 additional documents produced by third parties pursuant to subpoenas; review of additional
5 information obtained through informal discovery, including requests to witnesses to provide
6 documents; examination of fourteen witnesses under oath pursuant to subpoenas; and informal
7 interviews of approximately seven other witnesses.

8 8. Upon conclusion of the investigation, the Attorney General made ultimate findings as
9 follows.

10 9. In the summer of 2020, several community-based organizations acting together as a
11 coalition called Building Healthy Communities Kern (or “BHCK”), and a public relations and
12 marketing firm called Adelante Strategies (or “Adelante”), developed contracts with the Kern
13 County Public Health Services Department to provide assistance with its public health response to
14 COVID-19.

15 10. The BHCK and Adelante contracts were put on the agenda for the October 20, 2020
16 Kern County Board of Supervisors (“Board”) meeting for approval. When the contracts came on
17 for consideration, three of the four Supervisors in attendance—herein Supervisors A, B, and C—
18 expressed their opposition to the contracts and their unwillingness to approve them.

19 11. The Attorney General found that, with respect to the COVID-19-related contracts, the
20 County terminated its commercial relationships with BHCK and Adelante Strategies, and refused
21 to enter into the COVID-19-related contracts with them, because of their exercise of their free-
22 speech rights as to matters of public concern, including their free speech, association, and
23 petitioning rights. The Attorney General further found that there was no legal justification for the
24 County’s actions. The Attorney General thereby found that the County violated the California
25 constitutional free-speech rights of BHCK, Adelante Strategies, and Adelante Strategies’ owner
26 and chief executive officer.

27 12. The Attorney General further found two other instances in which County Supervisors
28 expressed concerns or hesitation about contracting with or funding organizations because of their

1 protected free-speech activities. The Attorney General also found evidence giving rise to the
2 concern that one or both of these Supervisors may have engaged in viewpoint discrimination in
3 the past.

4 13. The Attorney General further found evidence giving rise to a significant concern that
5 current members of the Board appear willing to violate independent contractors' or other
6 organizations' free-speech rights again in the future with regard to making contracting or other
7 public funding decisions.

8 14. The Attorney General further found that, in considering potential public contracts or
9 other government funding opportunities, some Supervisors may have acted in the past, and may
10 be prepared to act in the future, on the basis of an unfounded position that charitable
11 organizations with tax-exempt status under section 501(c)(3) of Title 26 of the United States
12 Code (the Federal tax code) are not permitted to engage in any political activity, and that the
13 County is therefore lawfully justified in discriminating against 501(c)(3) organizations the County
14 deems to be politically active. On this basis also the Attorney General found there is significant
15 reason to be concerned about recurring free-speech rights violations.

16 15. The Attorney General did not find evidence that the County engaged in a pattern or
17 practice of free-speech rights violations relating to contractors or County employees during the
18 time period covered by the investigation.

19 16. Though the County was cooperative and diligent in providing the Attorney General
20 documents requested by the Attorney General's subpoena, the Attorney General found several
21 instances in which the County negligently failed to preserve relevant documents that were
22 responsive to the Attorney General's subpoena, and which the County otherwise had a duty to
23 preserve because it was on notice of the potential for litigation in which the documents might be
24 relevant.

25 17. The Parties worked together cooperatively to negotiate and agree to a remedial plan
26 that addresses the violations found and concerns identified by the Attorney General during the
27 investigation. The remedial plan is embodied in a [Proposed] Stipulated Judgment, which the
28 Attorney General will request the Court to sign and enter as the judgment in this action.

1 18. The remedial plan includes, but is not limited to:

2 a. The County being prohibited from taking any adverse action or omission
3 against any individual or entity to whom the County owes a legal duty under the California
4 Constitution, article I, sections 2(a) and 3(a), based on conduct protected by provisions in
5 those sections relating to freedom of speech, the rights to freely associate and assemble, and
6 the rights to petition the government for redress of grievances and instruct representatives;

7 b. A three-year oversight period;

8 c. Oversight of County compliance with the Stipulated Judgment by a free speech
9 expert and the Attorney General;

10 d. Adoption, dissemination, and compliance with a free speech policy, which
11 states a County-wide policy that all persons acting on behalf of the County are prohibited
12 from discriminating against, harassing, or retaliating against a contractor, employee, or
13 applicant for employment because the person exercised their free-speech rights, and sets
14 forth a complaint, investigation, and resolution procedure for complaints that a person has
15 experienced unlawful discrimination or harassment described in the free speech policy.

16 e. Hiring of a free speech expert to, among other things, train County personnel on
17 the rights described in the free speech policy; train a County Complaint Coordinator on the
18 free speech policy and how to identify, investigate, evaluate, and resolve complaints
19 alleging violations of the rights described in the free speech policy; review and approve
20 County Complaint Coordinator draft proposed resolutions of complaints of violations of the
21 free speech policy; assess compliance during the three-year oversight period; and prepare
22 and submit three annual reports regarding the same.

23 f. Designating a County Complaint Coordinator to receive, investigate, and
24 resolve complaints of violations of the free speech policy, subject to approval by the free
25 speech expert.

26 g. Trainings for relevant County personnel on the free speech policy, and on the
27 scope of a charitable organization's right to engage in political activity consistent with its
28 tax-exempt status under 26 U.S.C. § 501(c)(3).

1 h. Inclusion of language in County contracts stating that contractors are prohibited
2 from using County resources to engage in any political or religious activity.

3 i. Instruction to relevant County personnel not to limit their communications with
4 BHCK coalition members or Adelante Strategies based on legally protected conduct.

5 j. Adoption and implementation of improved instructions and processes for
6 implementing litigation holds, including the preservation of information that may be subject
7 to investigative discovery, and annual trainings for Supervisors and their staffs to ensure
8 compliance with their obligations to preserve official records.

9 19. The Attorney General finds that the County is ready to move forward cooperatively to
10 implement and comply with the Stipulated Judgment.

11 **I. THE ATTORNEY GENERAL CONCLUDED THAT THE COUNTY DISCRIMINATED**
12 **AGAINST BHCK AND ADELANTE BASED ON THEIR POLITICAL ACTIVITY AND**
13 **VIEWPOINT, IN VIOLATION OF THEIR RIGHTS TO FREE SPEECH, PETITION, AND**
14 **ASSOCIATION.**

15 **A. Building Healthy Communities and Adelante Strategies**

16 20. Building Healthy Communities is a program of the California Endowment
17 foundation. BHCK was an initiative of Building Healthy Communities. BHCK operated as a
18 coalition of nonprofit, community-based organizations based in Kern County. Among other
19 issues, BHCK worked on addressing health inequities, and improving health outcomes, in
20 numerous County communities.

21 21. The groups that comprised the BHCK coalition for purposes of this action were All of
22 Us or None, Centro de Unidad Popular Benito Juárez, Cultiva La Salud, Dolores Huerta
23 Foundation, Faith in the Valley, Jakara Movement, Líderes Campesinas, South Kern Sol, and
24 Visión y Compromiso.

25 22. Adelante Strategies (“Adelante”) is a communications and public relations marketing
26 firm based in Kern County.
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1 **B. BHCK Groups' and Adelante Strategies' Commercial Relationships With**
2 **the County**

3 23. The Attorney General found that BHCK coalition members and Adelante Strategies
4 had existing commercial relationships with the County at the time the COVID-19 contracts were
5 being negotiated and prepared for Board of Supervisors approval, and at the time when the Board
6 acted not to approve the BHCK and Adelante contracts.

7 24. From January 14, 2020 to September 30, 2020, the Dolores Huerta Foundation,
8 Jakara Movement, South Kern Sol, Visión y Compromiso, and Adelante Strategies were under
9 contracts with the County to provide multi-language outreach, marketing, and communications
10 services to hard-to-reach communities as part of the County's efforts to get as many County
11 residents as possible to respond to the U.S. Census.

12 25. Adelante also had provided media campaign services for Community Action
13 Partnership of Kern (CAPK), a non-profit organization, under CAPK's contract with the County
14 related to the Housing for the Harvest program. One such contract was in effect on October 20,
15 2020.

16 26. In addition to its 2020 Census contract, Visión y Compromiso had a contract with the
17 County from October 1, 2016 through September 30, 2019, under which Visión y Compromiso
18 provided Supplemental Nutritional Assistant Program Education/Faith-based Nutrition Education
19 Obesity Prevention services, including nutrition education classes.

20 27. Prior to October 2020, one or more of the other BHCK coalition members had
21 provided public services for the County's benefit, under partnerships or other collaborations with
22 the County, using funding provided by other, non-County entities.

23 28. As noted above, and discussed more fully below, BHCK and Adelante Strategies
24 were already working for compensation under the proposed COVID-19-related contracts prior to
25 October 20, 2020, at the County's direction, when, as the Attorney General found, the Board of
26 Supervisors acted to deny the contracts.

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28

1 **C. The County Negotiated Contracts with BHCK and Adelante to Provide**
2 **COVID-19-Related Outreach Services**

3 29. The Attorney General found that the County’s Public Health Services Department
4 (the “Department”) negotiated contracts with BHCK and Adelante Strategies to provide COVID-
5 19-related education and marketing services. The contracts were finalized and approved as to
6 content and form by the Department and County Counsel. Under County procurement rules,
7 because the contract amounts exceeded \$200,000, the contracts required approval and signature
8 by the Board of Supervisors.

9 30. In August 2020, BHCK began discussions with the County’s Public Health Services
10 Department about the County’s public health response to COVID-19 in the vulnerable
11 communities the BHCK coalition groups served.

12 31. The Public Health Services Department recognized that BHCK was established,
13 experienced, ready to start working, and knowledgeable on the topic of COVID-19. The
14 Department saw BHCK and Adelante as the only ones who could provide the services being
15 discussed, and was unaware of any other organizations that could provide a similar level of
16 service.

17 32. After further discussions, the Public Health Services Department, BHCK, and
18 Adelante began to develop contracts for the BHCK coalition to do multilingual COVID-19-
19 related outreach, and for Adelante Strategies to run a multicultural marketing campaign. BHCK
20 prepared a statement of work and budget, which were negotiated between the parties.

21 33. By October 6, 2020, the parties had agreed on near-final contract terms. By October
22 6, 2020, County Counsel had approved the contracts as to form. On October 6, 2020, the Public
23 Health Services Department sent the final contracts to BHCK and Adelante for signatures, and
24 BHCK and Adelante both signed their respective contracts. The next day, October 7, 2020, the
25 Director of the Public Health Services Department signed both agreements, “Approved as to
26 Content.”

27 34. The BHCK contract named the Dolores Huerta Foundation, Faith in the Valley,
28 Jakara Movement, Centro de Unidad Popular Benito Juárez, All of Us or None, Visión y

1 Compromiso, Cultiva La Salud, and Líderes Campesinas as the organizations that would be
2 providing the services described in the contract’s “Scope of Work” section.

3 35. The proposed contracts were put on the agenda for approval at the October 20, 2020
4 Board of Supervisors meeting.

5 36. The Public Health Services Department expected the contracts to be approved and
6 was not aware of any reason why they would not be. The request to the Board was to approve the
7 contracts as retroactive agreements, in recognition that (as discussed below), BHCK and Adelante
8 had already begun performing work under the contracts at the County’s direction.

9 **D. BHCK and Adelante Began Work Under the Contracts at the County’s**
10 **Direction Prior to the Board of Supervisors’ Meeting Where the Contracts**
11 **Were to be Approved**

12 37. The Attorney General found that, at the County’s direction, BHCK and Adelante
13 Strategies began working for compensation under the proposed retroactive agreements prior to
14 the October 20, 2020 Board meeting where the contracts were on the agenda for approval.

15 38. In September 2020, the Public Health Services Department told BHCK and Adelante
16 to start work under the contracts before, or as early as, October 1, 2020. On or about September
17 19, 2020, the Department told Adelante the County needed it to start work on the contract
18 deliverables the following week. The Department told the BHCK groups they needed to send
19 representatives to a training for outreach workers to be provided by the Department before the
20 October 20, 2020 Board of Supervisors meeting. The Department told BHCK and Adelante that
21 the contracts were going to be retroactive and that the County would pay them for any work they
22 did under the contracts before the contracts were approved by the Board.

23 39. Adelante and BHCK began working under the contracts prior to October 20, 2020.
24 For example, BHCK coalition members recruited, hired, and trained canvassers. Adelante hired a
25 graphic designer, developed graphics and messaging materials, and presented on its graphics and
26 messaging to the Public Health Services Department. Centro de Unidad Popular Benito Juárez
27 interviewed individuals for canvasser positions and began training approximately 30-40 people.
28 On October 19, 2020, Adelante, BHCK coalition members, and canvassers they had hired
attended a two-hour COVID-19-related training provided by the Department.

1 40. The Public Health Services Department advised the Dolores Huerta Foundation, one
2 of the BHCK groups, to invoice the County for the time its staff had spent on the training.
3 Adelante submitted an invoice for its work under the contract, which the County paid in full.

4 **E. The Attorney General Concluded that the Board Refused to Approve the**
5 **Contracts Because of BHCK’s and Adelante’s Protected Free-Speech**
6 **Activities**

7 41. The Attorney General found that the Kern County Board of Supervisors refused to
8 approve the proposed retroactive contracts because of the protected free-speech activities of
9 BHCK and Adelante’s sole owner and chief executive officer.

10 42. The Board of Supervisors held its regular meeting on October 20, 2020 with four of
11 its five members in attendance.

12 43. Item 31 on the agenda was the Public Health Services Department’s request for the
13 Board’s approval of the proposed retroactive contract with BHCK and authorization for the Board
14 chair to sign the contract. Item 32 on the agenda was the Department’s request for the Board’s
15 approval of the proposed retroactive contract with Adelante Strategies and authorization for the
16 Board chair to sign the contract.

17 44. In order for the BHCK contract to be approved by the Board, and for the Board Chair
18 to be authorized to execute the contract on the County’s behalf, the following would need to
19 occur. First, a board member would have to make a motion to approve the contract and authorize
20 the Board Chair to execute the contract for the County. Second, another board member would
21 have to second the motion. Third, a minimum of three of the four Supervisors attending the
22 meeting would have to vote affirmatively on the motion. The same requirements applied to the
23 Adelante contract.

24 45. As set forth below, Supervisors A, B, and C were opposed to approving the proposed
25 retroactive contracts and communicated that they would vote against them, such that they could
26 not be approved at the meeting.

27 **F. Supervisor A**

28 46. When the BHCK proposed retroactive contract came up for comments, Supervisor A
spoke first, stating in part as follows:

1 I had received some communications from people, some calls from folks that
2 were, a few that were concerned about some of the Facebook activity of . . .
3 this group. And the thing with social media, it can be a blessing and a curse.
4 But I think it always can reveal a lot about an organization and what their
5 priorities are. And unfortunately, what I saw on their Facebook page over the
6 course of June and July were ten posts that were calling for the defunding of
7 both the Kern High School District Police Department, eliminating police in
8 our high schools, and also defunding of the BPD [Bakersfield Police
9 Department], a campaign to try and get folks to sign petitions, to show up, to
10 make calls, send emails to the Bakersfield City Council to defund the
11 Bakersfield Police Department. And respectfully, I don't think that that fits
12 in with the opinion of the majority of the County of Kern. I think that that is
13 a radical political agenda that gives me great pause in awarding a contract
14 with an organization that took on that cause. I think to myself after the
15 hundreds and hundreds of law enforcement officers that have been injured
16 throughout the country with all of the protests, the rioting, the billions of
dollars in property that have been destroyed, I think how our Sheriff's
Department, our deputies and our law enforcement throughout the county
would feel if the County of Kern contracts with an organization that is
calling for their defunding. We here in Kern County did the opposite. We
gave more money to the Sheriff's Department. Because we saw a need. The
Bakersfield City Council is planning to give more funding to their police
department. And I think that that's the right direction. I think the law
enforcement needs more resources, not less. Other organizations have
reached out with interest in applying for the services. We have a couple
emails from two of those.^[1] You know, we, this is Kern County. We're not
Seattle. This is where we support law enforcement, and we want more
resources to go to law enforcement. . . . Thank you, . . . Madame Chair,
those are all my comments I have. But I won't be able to support item 31
[the BHCK contract] today.

17 47. During further discussion, Supervisor A stated, "I feel that call to defund our law
18 enforcement in Kern County strikes at the heart of our need to support our men and women in
19 uniform. I feel that that is not what the majority of my constituents believe we should be doing.
20 And so, for that reason, I think that we need to explore other options and, you know, I don't want
21 to, I'm not looking to make this a debate about all the different political positions that are
22 acceptable and what aren't. I'm telling you for me, that one is not acceptable. So, that's why I'm
23 not going to support this contract."

24 48. When the request to approve the Adelante Strategies contract came on for discussion,
25 Supervisor A stated, "I pulled this item because it's tied, I think, quite directly to item 31 [the
26 BHCK contract], which I had concerns about. The communications manager for Building Healthy
27

28 ¹ On October 19, 2020, two other organizations had written to the Board of Supervisors
stating their interest in the contracting opportunities.

1 Communities is the CEO and President of this organization. Similar comments, as I said, on the
2 CEO and President’s Facebook page about defunding the police. So, it was the same concerns I
3 had. That’s why I wanted to pull it. . . . [T]hose are basically all my comments. I won’t be
4 supporting this either.”

5 **G. Supervisor B**

6 49. Supervisor B commented next, stating,

7 The issue before us is do I want to support Building Healthy Communities
8 Kern, delivering a message on behalf of all of us to our community? I am not
9 going to support that this morning. Unfortunately, this organization has
10 regrettably made it very clear that they, as well as attempting to do a great
11 public service, also have a very specific political message and agenda. And I
12 think that I am not, I know that I am not comfortable mixing those two
13 things this morning. So, I will not support granting the contract to Building
14 Healthy Communities of Kern.

15 50. During the discussion of the Adelante contract, Supervisor B stated:

16 I want to just expand a little bit more on my perspective on this. I heard
17 [Adelante’s owner and chief executive officer] [say] something [at the
18 meeting] about if we don’t stand with you, with your view, then we don’t
19 participate. Well, the reality is that what I’m looking for is somebody who
20 doesn’t have a view. I don’t care. And I do not support, I don’t care to, nor
21 do I support using taxpayer money to reward organizations that have a
22 specific political agenda. And it is, I don’t have the slightest hesitation about
23 being helpful and supportive of the efforts of the Hispanic Chamber. I don’t
24 have the slightest hesitation to be supportive of the members of the Latino
25 leadership group that is helping to steer this. Because while I have, I might
26 have vastly different political perspectives than them, they are now working
27 in this effort without a political agenda. And it is clear that [Adelante
28 Strategies] and the organization that we just said we weren’t going to give
29 money to are, they have no compunction about mixing their messages.
30 While they are delivering one message about something they are trying to
31 accomplish in the community, they are at the same time delivering a very
32 specific political message. And I cannot support the political message that I
33 see being espoused. So, I will not be in support of item number 32 [the
34 Adelante Strategies contract].

35 **H. Supervisor C**

36 51. Following Supervisors A’s and B’s comments, Supervisor C stated,

37 I got the rulebook right here about 501(c)(3) [i.e., 26 U.S.C. § 501(c)(3) tax-
38 exempt] organization participating in political activities. And it clearly states
39 that they are not permitted to be an action organization, as defined by any of
40 the following three ways. A substantial part of any 501(c)(3) is not allowed
41 to be a substantial part of its activities which attempting to influence
42 legislation, which include supporting its adoption or rejection and

1 contracting legislators to oppose, support or pose legislation. So, my, I agree
2 with [Supervisor A] and the fact that I'm not supportive of this effort. But I
3 don't completely agree with him. Because I don't feel that it is, has anything
4 to do with building, defunding the police or not, although I'm not supportive
5 of that. It is any political activity is not allowed by any 501(c)(3)'s that
6 we're participating with. And earlier, you asked about the posts that I found.
7 And I have them right here, if you'd like to look at them They clearly
8 show that this organization is politically active, very politically active. I
9 personally don't like their politics. But that's my business and not theirs. But
10 as a board of supervisors, member of a board of supervisors, I can't support
11 an organization, a 501(c)(3) that I want to contract with, that has political
12 activity, significant political activities. . . . I agree with [Supervisor D], who
13 is saying that it's worthwhile to clearly define our position. And if our
14 position is that we're not going to allow these 501(c)(3) to have political
15 positions or advocate a significant portion of their budget or be in the public
16 significantly, then we don't . . . so, if they want to do business with us, they
17 have to be a-political and have to be focused on the task at hand. And that's
18 who we should be doing business with. So, I agree with both . . . [Supervisor
19 D]—I agree with you and I agree with [Supervisor A]. . . . We have to define
20 our position. And my position is clearly defined. Any politics is off balance
21 for me. So, I will make a motion to not approve item 31.

22 52. When the Adelante contract came on for discussion, Supervisor C stated,

23 I agree with the direction we're going. I don't like the fact that the LinkedIn
24 page for the person who is on the Adelante Strategies website is also listed
25 as a current communications director for Building Healthy Communities. So,
26 the two appear to me to be linked. I agree completely with what [Supervisor
27 D] is saying that we need to have some type of balance and approach to
28 separating whether a 501 is a public health organization or it's a political
activist group. Either way, I don't care. I think we should have a clear way
of understanding that. So, whether they're putting stuff out on Facebook, or
whether they're wearing a MAGA hat, I think either one of those is
inappropriate. And I think we have to provide the capability to confidentially
and effectively provide public health services. And that includes being, just
distancing from politics as best we can. It's not going to be pure. But we've
got to hold people accountable to a standard.

29 **I. Supervisor D**

30 53. The Attorney General found clear evidence that Supervisor D supported approving
31 the BHCK and Adelante contracts.

32 54. Prior to the October 20, 2020 Board meeting, Supervisor D supported the efforts to
33 develop the contracts.

34 55. At the Board meeting, Supervisor D further indicated that they supported the
35 contracts, and the only reasonable inference is that they would have voted affirmatively if
36 motions had been made and brought to votes. Supervisor D also tried to engage the other
37 supervisors in discussion of the standards they were using to determine what kind of political
38

1 speech or activity would disqualify an independent contractor from doing business with the
2 County. Supervisor D made clear they did not agree with the other Supervisors' positions and that
3 they did not approve of withholding approval of the contracts on the basis of BHCK's and
4 Adelante's being politically active or speaking in support of defunding the police in particular.
5 Supervisor D also commented about how unfortunate and frustrating it was that the Public Health
6 Services Department's plan to proceed with BHCK and Adelante Strategies was being pulled at
7 the eleventh hour.

8 **J. The Attorney General Concluded that the Board Acted to Deny the**
9 **Contracts**

10 56. After commenting on the BHCK contract, which was Item 31 on the agenda,
11 Supervisor C stated, "I will make a motion to not approve item 31." After Supervisor D asked
12 whether that was "appropriate posture, legally speaking," the Board Clerk stated that the Board
13 could take a vote on the item, but that if the Board chose not to approve the item, there could be
14 no action; if no action were taken, the item would not be approved.

15 57. After some further discussion that followed, Supervisor B made their comments
16 discussed above, and concluded by stating that they would not support granting the contract to
17 BHCK.

18 58. Supervisor C then asked if there needed to be a motion made, and for someone to tell
19 them if there needed to be a motion made. Supervisor D replied that there did not need to be one,
20 as the Clerk had explained that if no action was taken, the contracts would not be approved.
21 Supervisor C responded, "Then I don't need to make a motion."

22 59. No motion was made to approve or reject the BHCK contract, and the contract was
23 thereby not approved. The Board Chair did not execute the contract for the County as requested.
24 No Supervisor requested further discussion of the BHCK contract agenda item or sought a
25 continuance of the item or made any request for the BHCK contract to be put back on the agenda
26 for a future meeting.

27 60. The meeting next addressed Item 32 on the agenda, the Adelante Strategies contract.
28 Following Supervisors A's, B's, and C's comments in opposition to approving the Adelante

1 contract, summarized above, Supervisor D stated, “I do not see a motion on item 32. So I’m going
2 assume that that dies and does not move forward.” No supervisor disagreed or said anything to
3 the contrary. No motion was made to approve or reject the Adelante contract, and the contract
4 was thereby not approved. The Board Chair did not execute the contract for the County as
5 requested. No supervisor requested further discussion of the Adelante contract agenda item or
6 sought a continuance of the item or made any request for the Adelante contract to be put back on
7 the agenda for a future meeting.

8 61. At the same meeting where, as the Attorney General found, the Board denied the
9 BHCK and Adelante contracts, the Board unanimously approved a \$365,000 contract with the
10 Kern County Hispanic Chamber of Commerce to fund the Chamber’s work in establishing and
11 operating a Latino Task Force aimed at reducing the transmission of COVID-19 in Latino
12 communities. Task Force activities were to include education outreach, an information hotline,
13 community engagement, and marketing/messaging. Among other of its activities, the Chamber is
14 known by the County and others to be engaged in political activity, including extensive
15 lobbying—a fact the Chamber touts. Yet no Supervisor asked any questions or raised any
16 concerns about the Chamber’s political activities, activism, or agenda, or the viewpoints the
17 Chamber expressed on matters of public concern.

18 **II. THE ATTORNEY GENERAL CONCLUDED THERE IS A THREAT OF FUTURE ADVERSE**
19 **ACTION BY THE COUNTY AGAINST INDEPENDENT CONTRACTORS BASED ON**
20 **SPEECH AND POLITICAL ACTIVITY**

21 62. The Attorney General found that there is a continuing threat that the County will
22 discriminate against independent contractors or other potential government funding recipients in
23 the future based on their protected free-speech activities.

24 63. The Attorney General found that Supervisor A, who is still on the Board—as well as
25 Supervisors B and C, who are no longer on the Board—offered a pretextual, post hoc account of
26 their actions against BHCK and Adelante Strategies in the Attorney General’s investigation.
27 Supervisor A stated during the investigation to have acted on the basis of a concern that BHCK
28 coalition group canvassers might deliver political messages at the same time they were going
door-to-door delivering COVID-19-related information to County residents.

1 64. The Attorney General found that Supervisor A—as well as Supervisors B and C—
2 never raised this concern with respect to these COVID-19-related contracts at the October 2020
3 Board meeting (or in any other forum), where, as Supervisor A knew, the concern could have
4 been addressed and resolved, as had been done to Supervisor A’s satisfaction in the case of other
5 County contracts in January 2020.

6 65. Supervisor E—whose office originally referred BHCK to the Public Health Services
7 Department for COVID-19 outreach and who was absent from the October 20, 2020 Board
8 meeting, where the BHCK and Adelante contracts were considered—is currently still on the
9 Board. Based on its investigation, the Attorney General found that Supervisor E disagrees that
10 any wrongdoing occurred based on the acts against BHCK and Adelante described above.

11 66. In addition, at the Board of Supervisors meeting held on December 9, 2017, the
12 Board considered a request from Supervisor D to approve discretionary funding for a group called
13 Faith in Action. Supervisor E spoke in opposition to the request, and made statements indicating
14 that, as a matter of policy, they would deny County funding to organizations that engaged in
15 political activities or political advocacy. As a result of Supervisor E’s comments, and similar
16 comments made by Supervisor B, Supervisor D withdrew the request for approval of the funding,
17 and Faith in Action did not receive the proposed funding.

18 67. Based on the investigation, the Attorney General found that Supervisor E has not
19 dropped their categorical opposition to giving County funds to organizations that the Supervisor
20 deems to be politically active.

21 68. In addition, in January 2020, Supervisor E commented to another County employee
22 that the Dolores Huerta Foundation—one of the BHCK groups at issue in the Complaint—was a
23 political activist organization. Supervisor E made this remark while discussing a County contract
24 that was being planned for the Dolores Huerta Foundation to perform outreach work for the
25 County related to the 2020 U.S. Census. The County employee was working on developing the
26 contract, and had been called in to meet with Supervisor E about their questions and potential
27 concerns relating to the Census-related contracts that were being worked up with the Dolores
28 Huerta Foundation and others.

1 69. Through its investigation, the Attorney General further found as follows, regarding
2 Supervisor E: Supervisor E is opposed to the County funding or supporting organizations that are
3 involved in political activity or advocacy; when the County is funding an organization,
4 Supervisor E does a preliminary investigation to determine if the organization is engaged in
5 political activity; Supervisor E probably would not have voted to approve County funding for the
6 Dolores Huerta Foundation if it had posted on social media to defund the police; and Supervisor
7 E would be more or less likely to approve funding for a group depending on the particular
8 viewpoint it espouses on political matters.

9 70. Supervisor F is a current Supervisor. Based on the investigation, the Attorney General
10 found the following.

11 71. When Supervisor F previously worked as District Director for Supervisor C,
12 Supervisor F saved Faith in Action's social media posts in 2017, in order to show Supervisor C
13 that the organization was politically active, so that Supervisor C could oppose County funding for
14 Faith in Action on that basis.

15 72. When Supervisor F was previously Supervisor's C District Director, Supervisor F, in
16 advance of the October 20, 2020 Board meeting where the BHCK and Adelante contracts were
17 rejected, provided the Board with printed copies of BHCK social media posts, in order to show
18 that BHCK was advocating for political positions as—they erroneously believed—a 501(c)(3)
19 organization.

20 73. Supervisor F believes nonprofits that engage in any political advocacy are breaking
21 the law. Supervisor F believes that when it comes to the possibility of County vendors having
22 political positions, there should not be anything that might even have the appearance of
23 benefitting a political interest with public dollars.

24 74. Supervisor G is a current member of the Board Supervisors. In October 2020,
25 Supervisor G was working as a staffer for Supervisor B, who opposed the BHCK and Adelante
26 contracts. In that capacity, Supervisor G had a discussion with Supervisor B to the effect that the
27 BHCK and Adelante contracts needed to be stopped because of the involved organizations' social
28 agenda.

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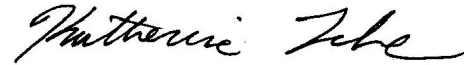
82. For the Court to exercise continuing jurisdiction over this action to ensure that Defendant complies with the judgment as set forth in the [Proposed] Stipulated Judgment; and

83. For such other and further relief as the Court deems just and proper.

Dated: December 7, 2023

Respectfully submitted,

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