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AGREEMENT

THIS AGREEMENT ("Agreement") is made this 17th day of December, 2024 ("Effective Date"), by and between the County of Fresno, a political subdivision of the State of California ("County"), and the Malaga County Water District ("District").

WITNESSETH

WHEREAS, the County has been designated as the sponsoring agency to administer and implement the program for the Community Development Block Grant ("CDBG") Program activities for the County, and its participating cities, in accordance with the provisions of Title I of the Housing and Community Development Act of 1974, as amended, and the laws of the State of California; and

WHEREAS, CDBG funding has been made available to the County for housing and community development activities; and

WHEREAS, the District has submitted the Malaga Wastewater Treatment Plant Nitrogen Reduction, Project No. 21451 ("Project"), to the County for CDBG funding; and

WHEREAS, at a public hearing conducted on May 11, 2021, the County Board of Supervisors approved the Project on the back-up list, as part of approving the County's 2021-2022 Annual Action Plan, should funding become available; and

WHEREAS, on June 7, 2022, the Project was funded from the back-up list, and provided \$250,000 in CDBG funding under Agreement No. 22-236; and

WHEREAS, at a public hearing conducted on June 21, 2022, the County Board of Supervisors approved Phase II of the Project on the back-up list, as part of approving the County's 2022-2023 Annual Action Plan, should funding become available; and

WHEREAS, on November 8, 2022, Agreement No. 22-236 was amended to add Phase II of the Project and increase CDBG funding to \$500,000; and

WHEREAS, the District has estimated that the total cost of the Project is \$665,300, of which \$87,175 was paid from CDBG funds under Agreement No. 22-236, leaving an estimated cost of \$578,125 to complete the Project, and

WHEREAS, Agreement No. 22-236 expired due to an extended design engineering phase,

1 and multiple unsuccessful bids for construction, and the remaining \$412,825 in CDBG funds  
2 allocated to Agreement 22-236 are still available for the Project, and

3 WHEREAS the District has committed local funds to the Project in the amount of \$35,300  
4 and needs \$542,825 in CDBG funding to complete the Project; and

5 WHEREAS, there are sufficient CDBG funds available to fund the Project using the  
6 remaining unexpended funds from Agreement 22-236 and other unprogrammed CDBG funds; and

7 WHEREAS, the Project is consistent with the objectives of the Fresno County Consolidated  
8 Plan, including the 2021-2022 and 2022-2023 Annual Action Plans.

9 NOW THEREFORE, in consideration of their mutual promises as hereinafter set forth, the  
10 District and County agree as follows:

11 I. PROJECT DESCRIPTION, LOCATION AND BUDGET

12 A. The Project consists of various aeration, flow, and control system  
13 modifications, upgrades, and improvements at the Malaga Wastewater Treatment Plant. The  
14 Project will improve treatment efficiency and reduce the effluent nitrogen content, to meet new  
15 regulatory requirements and reduce groundwater contamination. The project is located at the  
16 Malaga wastewater treatment plant, located northwest of the intersection of E. Central and S.  
17 Maple Avenues, in the community of Malaga.

18 B. The Project site is owned by the District.

19 C. The work to be funded with CDBG funds is as follows:

20 1. Obtain all necessary permits.

21 2. Perform all necessary design engineering, including, but not limited  
22 to, surveying, testing, preparation of plans, specifications, and cost estimates, bid documents and  
23 a cost or price analysis, review of bids and recommendation for award.

24 3. Prepare and advertise Project bid notices and award construction  
25 contracts including, but not limited to, the printing of bid documents, publishing of notices, and  
26 preparation of bid summary.

27 4. Perform all construction engineering including, but not limited to,  
28 shop drawing review and approval, contract change order preparation, surveying, staking,

1 inspection, soil testing, materials testing, preparation of "as-built" drawings, labor compliance, and  
2 contract administration.

3 5. Provide related eligible improvements.

4 D. The Project budget is estimated by the District as follows:

5	Construction	\$426,800
6	Design & Construction Engineering	104,825
	Contingency, Permits & Misc.	<u>46,500</u>
7	Total	\$578,125

8 E. Notwithstanding District's estimates described in the above-described  
9 Project budget, payments for the Project from CDBG funds shall be limited to the District's actual  
10 costs, and in any event shall not exceed the total amount of \$542,825. In the event CDBG funds  
11 are not sufficient, the District shall in any event complete the Project using its own funds.

12 F. The proposed funding for the Project shall be provided from the following  
13 sources:

14	CDBG	\$542,825
15	Local Financial Contribution	<u>35,300</u>
	Total	\$578,125

16 G. Prior to any proposed changes that may occur which would modify the  
17 scope of the Project, the District shall submit a written request to the County. The District shall  
18 send its written request to:

19 Community Development Grants  
20 County of Fresno  
21 Department of Public Works and Planning  
22 Community Development Division  
23 2220 Tulare Street, 6<sup>th</sup> Floor  
24 Fresno, CA 93721

23 If the Director of the County Department of Public Works and Planning ("Director") determines the  
24 modified Project is still eligible under the Federal CDBG regulations, the Director is authorized to  
25 permit such modifications. The Director shall specify in a letter to the District whether such  
26 modifications to the scope of the Project are authorized, and if the District may proceed.

27 II. OBLIGATIONS OF THE COUNTY

28 A. The County shall reimburse the District up to, but not more than, \$542,825

1 in CDBG funds for the Project for the District's performance of its obligations under this Agreement.  
2 All funds shall be paid in accordance with Section V of this Agreement.

3 B. The County shall review, within thirty (30) calendar days of receipt from the  
4 District, the engineer selection process description and summary of the analysis, as prepared by  
5 the District, to verify that a competitive process was conducted in accordance with U.S. Department  
6 of Housing and Urban Development (HUD) procurement standards. If such conditions have been  
7 met, the Department of Public Works and Planning, Community Development Division (Division)  
8 shall specify in a letter to the District that these conditions have been met, and that the engineering  
9 contract can be awarded.

10 C. The County shall review, within forty-five (45) calendar days of receipt from  
11 the District, the design plans and specifications for the Project, as prepared by the District, for  
12 compliance with Federal regulations, conformance with applicable code requirements sufficient to  
13 allow for construction-related permit issuance, and the total Project cost estimate, to determine  
14 whether sufficient funds are available to complete the Project. If such conditions have been met,  
15 the Division shall specify in a letter to the District that these conditions have been met and that the  
16 Project can be advertised. If such conditions have not been met, the Project will not move forward  
17 unless the District receives an approval letter from the Division.

18 D. The County shall also review, within twenty-one (21) calendar days of  
19 receipt from the District, the name of the low bidder, and cost or price analysis of the low bid  
20 proposal prepared by the District, to determine whether the contractor will be reasonably  
21 compensated in accordance with Federal requirements, and to verify that the contractor is bonded,  
22 and has not been disbarred or suspended from participating in Federal projects. If such conditions  
23 have been met, the Division shall specify in a letter to the District that these conditions have been  
24 met, and that the contract can be awarded. If such conditions have not been met, the Project will  
25 not move forward unless the District receives an approval letter from the Division.

26 E. The County shall attend the pre-construction meeting between the District  
27 and the contractor to discuss labor compliance requirements for the Project, Project monitoring,  
28 and to inform the District and contractor that the County will conduct field reviews to determine

1 whether labor compliance and other conditions of the construction contract are being met.

2 F. The County shall conduct periodic inspections of the Project, as may be  
3 required, in the determination of the County, that the intended use and group of beneficiaries of  
4 the Project, as identified by the District in the application, have not changed. Upon completion of  
5 the Project, but prior to the District's acceptance of the Project, the County shall conduct a final  
6 inspection of the Project. If such conditions have been met, the Division shall specify in a letter to  
7 the District that the conditions of this Section have been met. If such conditions have not been met,  
8 the Project will not move forward unless the District receives an approval letter from the Division.

9 G. Notwithstanding anything to the contrary in this Section II or Section III of  
10 this Agreement, the County's determinations and actions under this Section II and Section III of  
11 this Agreement are solely for the benefit of the County, as the provider of the CDBG funding stated  
12 herein, and do not relieve the District of its obligations, or lessen the District's obligations, under  
13 this Agreement.

14 III. OBLIGATIONS OF THE DISTRICT

15 A. The District shall provide any and all sums of money in excess of \$542,825  
16 which may be necessary to complete the Project. For the purposes of awarding the construction  
17 of the Project within the Agreement amount, the bid documents shall include any proposed additive  
18 or deduct alternatives.

19 B. The District shall demonstrate in writing, and to the County's satisfaction,  
20 that it has the authority, operational ability, and financial resources for maintaining the  
21 improvements constructed with CDBG funds under this Agreement, prior to award of construction  
22 of the Project.

23 C. The District shall perform, or cause to be performed, all engineering work  
24 required for the Project.

25 D. In selecting an engineer to perform any engineering work required for the  
26 Project, the District shall go through a competitive process in accordance with Chapter 4.10 of the  
27 Ordinance Code of Fresno County, and HUD procurement standards. Prior to selection of the  
28 engineer, the District shall prepare a written description of the process, perform a cost or price

1 analysis, and submit the process description and summary of the analysis to the Division for  
2 review. The District shall obtain a letter from the Division specifying that the conditions of this  
3 Section have been met.

4 E. The District shall specify in agreements with its consultants that all  
5 engineering work funded with CDBG funds shall become the property of the District upon payment  
6 by the District for the cost of such engineering work.

7 F. The District shall furnish evidence, to the satisfaction of the Division, prior to  
8 the County's authorization to advertise for bids, that it has free and clear title to all parcels of real  
9 property on which Project improvements will be located, with any liens or encumbrances noted,  
10 and/or that it has obtained or can obtain all necessary easements, rights-of-way, licenses, permits,  
11 and State and local approvals required for the completion of the Project.

12 G. Upon completion of the design engineering, the District shall submit the  
13 plans and specifications to the Division. The Division will ensure Federal CDBG requirements have  
14 been adhered to, and will review cost estimates, to ensure sufficient funds are available. The  
15 District shall obtain a letter from the Division specifying these conditions have been met, and that  
16 the District is approved to advertise for bids to construct the Project.

17 H. The District shall advertise for bids, and shall award the construction  
18 contract to the lowest responsible bidder. At least ten (10) calendar days prior to the bid opening,  
19 the District shall notify the County of the date, time, and location of the bid opening.

20 I. Within seven (7) calendar days following the bid opening, the District shall  
21 furnish the Division with the name of the low bidder, and cost or price analysis of the low bid  
22 proposal prepared by the District, so that the County may verify with the Labor Relations and Equal  
23 Opportunity Division of the HUD Area Office that the low bidder is bonded and has not been  
24 debarred or suspended from participating in Federal projects, and that the contractor will be  
25 reasonably compensated in accordance with Federal requirements. The District shall obtain a  
26 letter from the County specifying these conditions have been met, and that the District is approved  
27 to award the Project for construction.

28 J. The District shall conduct a pre-construction meeting with the contractor,

1 and shall notify the Division at least ten (10) calendar days prior to the meeting so a representative  
2 of the County may attend to discuss CDBG labor compliance requirements for the Project.

3 K. The District shall require the contractor, and all subcontractors, to submit  
4 labor compliance documentation, including Certified Payroll, in the manner specified by the  
5 County's Labor Compliance Officer, including the use of electronic systems such as LCPTracker.

6 L. Prior to the construction start date, the District shall give written notice  
7 thereof to the Division, to include a copy of the executed contract between the District and the  
8 Contractor and the Notice to Proceed to the Division.

9 M. Concurrent with the submission of the first construction progress payment  
10 request, the District shall provide documentation demonstrating that all construction-related  
11 required permits have been issued by the County.

12 N. Proposed construction contract change orders shall not proceed until prior  
13 written approval has been given by the County. Request for approval of a change order(s) shall  
14 include a narrative description of the work, a cost or price analysis in accordance with HUD  
15 requirements, a map depicting the location of the work addressed with the requested change order,  
16 and a written certification from the District that the approval of the change order is consistent with  
17 the final construction cost estimate approved by the County. In addition, the District shall certify  
18 that the change order is within the scope of the Project and is necessary to complete the Project.

19 O. The District shall send its written description of the engineer selection  
20 process, cost or price analyses, design plans, specifications, name of low bidder and low bid  
21 proposal, public notices, and all written correspondence to:

22 Community Development Grants  
23 County of Fresno  
24 Department of Public Works and Planning  
25 Community Development Division  
26 2220 Tulare Street, 6th Floor  
27 Fresno, CA 93721

28 P. The District shall comply with the mitigation measures, conditions and notes  
identified in Initial Study/Environmental Assessment No. 8161 (the "Assessment"). A copy of the  
Assessment shall be provided to the District.

1 Q. Upon completion of the Project, the District shall notify the Division, so a  
2 representative of the Division may perform an inspection of the Project to confirm that it was  
3 completed in accordance with the scope of work approved and authorized pursuant to this  
4 executed Agreement.

5 R. Upon approval of Project completion by the County, the District shall provide  
6 the Division with a resolution of acceptance, or similar documentation, demonstrating that the  
7 Project was completed in accordance with the scope of work approved and authorized pursuant  
8 to this executed Agreement, and any approved subsequent amendments thereto and/or change  
9 orders, and that the District has accepted the Project. Prior to the final request for payment, the  
10 District shall also provide the County with a copy of the recorded Notice of Completion (NOC), a  
11 written summary of all Project work completed with CDBG and other funds, and documentation to  
12 demonstrate compliance with Section 3 of the Housing and Urban Development Act of 1968, as  
13 amended.

14 S. During the contract period, the District shall complete and submit annually  
15 on June 1, and upon completion of the Project, a Project Outcome Measurement Report (POM)  
16 form, a copy of which is attached hereto as Exhibit 1 and incorporated herein by reference. The  
17 POM shall contain the following information for the County's Federal reporting purposes to the  
18 U.S. Department of Housing and Urban Development (HUD):

- 19 1. Total number of households/persons assisted.
- 20 2. Number of total households/persons assisted that:
  - 21 a. Now have new access to this type of public facility or  
22 infrastructure improvement.
  - 23 b. Now have improved access to this type of public facility or  
24 infrastructure improvement.
  - 25 c. Now are served by public facility or infrastructure that is no  
26 longer substandard.

27 T. The District shall be responsible for maintenance of the Project after  
28 construction is completed, and shall perform such maintenance from non-CDBG resources.



1 U. The District must inform the County in writing of any program income  
2 generated by the expenditure of CDBG funds. Any program income generated as a result of the  
3 Project must be paid to the County. For purposes of this Agreement, program income is defined  
4 as proceeds from the disposition of CDBG-acquired real property, and principal and interest on  
5 CDBG loans. If the District contributed financially to the improvement Project, the District may  
6 retain a share of the program income in proportion to the District's contribution to the Project, after  
7 the District has provided a written accounting acceptable to the County.

8 V. The District must obtain prior written approval from the County before  
9 making any modification or change in the use of any real property improved, in whole or in part,  
10 using CDBG funds in excess of \$25,000. The District shall provide affected citizens with notice of,  
11 and opportunity to comment on, any proposed change to the use of real property improved with  
12 CDBG funds. If any real property improved with CDBG funds is sold and/or is utilized by the District  
13 for a use which does not qualify under the CDBG Program, the District shall reimburse the County  
14 in an amount equal to the current fair market value for the property, less any proportional share  
15 thereof attributable to expenditures of non-CDBG funds. These requirements shall continue in  
16 effect for five years after the Project is completed in HUD's Integrated Disbursement and  
17 Information System (IDIS). In the event the CDBG program is closed out, the requirements of this  
18 Section shall remain in effect for activities or property funded with CDBG funds, unless action is  
19 taken by the Federal government to relieve the District of these obligations.

20 W. The District acknowledges that the County may periodically inspect the  
21 Project to ensure that the property is being used as described in this Agreement. The District  
22 agrees to provide any necessary information to the County to carry out such inspections.  
23 Furthermore, the District agrees to take corrective action if the County determines that  
24 modifications to the use and location of the Project have resulted in a violation of the Federal  
25 CDBG regulations.

26 IV. CONFORMANCE WITH APPLICABLE LAWS AND REGULATIONS

27 A. The District shall, and shall cause its consultants, contractors, and  
28 subcontractors to, comply with all applicable State and Federal laws and regulations governing the

1 Project.

2           B.       The District must comply with the requirements of the Build America, Buy  
3 America (BABA) Act, 41 USC 8301 et. seq., and all applicable rules and notices, as may be  
4 amended, if applicable to the Grantee's infrastructure project. Pursuant to HUD's Notice,  
5 "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy  
6 America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 FR  
7 17001), any funds obligated by HUD on or after the applicable listed effective dates, are subject  
8 to BABA requirements, unless excepted by a waiver. The District shall ensure that all plans and  
9 specifications include requirements that all construction materials subject to BABA are noted as  
10 such.

11           C.       Whenever the District uses the services of a contractor, the District shall  
12 require that the contractor comply with all Federal, State and local laws, ordinances, regulations,  
13 and Charter of the County of Fresno Charter provisions applicable in the performance of their work.

14           D.       This Project is subject to the requirements of Section 3 of the Housing and  
15 Urban Development Act of 1968, as amended, 12 U.S.C. 1701(u). Accordingly, the District shall  
16 require the prime contractor to complete and submit documentation prior to award of the  
17 construction contract, and upon Project completion that compliance with the Section 3 of the  
18 Housing and Urban Development Act of 1968 clause have been met.

19           E.       Non-Discrimination: The District agrees to comply with the non-  
20 discrimination in employment and contracting opportunities laws, regulations, and executive orders  
21 referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-  
22 discrimination provisions in Section 109 of the Housing and Community Development Act of 1974  
23 are still applicable.

24           F.       Because the District is receiving at least \$100,000 for this Project from the  
25 County's CDBG Program under this Agreement, the District shall complete and submit to the  
26 Division a "Certification of Payments to Influence Federal Transactions" form and a "Standard  
27 Form LLL - Disclosure of Lobbying Activities" form. Likewise, before the District awards a contract  
28 using at least \$100,000 of such CDBG funds, the District shall require the consultant and/or

1 contractor and all their sub-consultants and/or subcontractors to complete and submit these two  
2 (2) forms described herein to both the District and the County.

3 G. Records Retention: The District shall retain all financial records, supporting  
4 documents, statistical records, and all other records pertinent to this Agreement for a period of four  
5 (4) years from the date of the submission of the County's consolidated annual performance and  
6 evaluation report to HUD in which the activities assisted under this Agreement are reported on for  
7 the final time. If there is litigation, claims, audits, negotiations, or other actions that involve any of  
8 the records cited, and that have started before the expiration of the four-year record retention  
9 period, such records must be retained until completion of the actions and resolution of all issues,  
10 or the expiration of the four-year period, whichever occurs later (24 CFR 570.502, 570.503(b)(2),  
11 570.506).

12 V. PAYMENT FOR THE PROJECT

13 A. At monthly intervals, the District shall submit a written request to the County  
14 for payment of specified costs incurred in the performance of this Agreement. The request for the  
15 County to make such a payment shall be in accordance with the exemplar Project Pay Request  
16 Form, attached as Exhibit 2, and incorporated by this reference. The request shall also be  
17 accompanied by a written certification from the District that the request for payment is consistent  
18 with the amount of work that has been completed, and that the work is in accordance with the  
19 construction contract documents and this Agreement. The request for payment shall also be  
20 accompanied by documentation acceptable to the County, such as checks, invoices, or vouchers  
21 for services or materials purchased, contractor's costs, or other costs chargeable to the Project.  
22 The first construction progress payment request shall also be accompanied by documentation  
23 demonstrating that all construction-related required permits have been issued by the County. After  
24 appropriate review and inspection, the County shall make payment from CDBG funds provided in  
25 this Agreement for all eligible costs specified herein up to the maximum amount payable under  
26 Section I.

27 B. Any savings realized in the final cost of the Project, due to Project cost  
28 and/or scope of work reductions, liquidated damages, or any other reason, shall be used to reduce

1 the amount of this Project paid for with CDBG funds in the same pro rata share that CDBG funds  
2 were used in payment of the Project. If the District is required to provide any additional funds  
3 toward the Project other than described in this Agreement, any cost savings shall be first used to  
4 reimburse the District for its contribution in excess of the total amount provided by this Agreement.

5 C. Payment for advertising and award shall be based on the actual costs of  
6 printing and noticing.

7 D. The County shall not be bound by any agreement between the District and  
8 its agents.

9 E. The County may withhold payment of the final payment request made by  
10 the District until evidence is submitted to the County that a maintenance plan has been prepared  
11 and adopted for the improvements constructed with CDBG funds.

12 F. Upon the completion of the Project, the District shall submit to the  
13 Division a written request for final payment of costs, which shall provide a detailed description  
14 of the Project pay items and costs. The final pay request shall be in accordance with Exhibit 2  
15 to this Agreement. The County shall not be obligated to make any payments under this  
16 Agreement if the request for payment is submitted by the District more than sixty (60) calendar  
17 days after the NOC has been filed with the County Recorder's Office. An extension to the sixty  
18 (60) calendar day period may be granted by the Director prior to the deadline if the District can  
19 demonstrate just cause for the delay.

20 G. The County may withhold payment of the final payment request made by  
21 the District until a final POM, recorded NOC, written summary of all Project work completed with  
22 CDBG and other funds, and evidence of compliance with the Section 3 clause, as specified in  
23 Sections III-R and IV-D, have been submitted to the County.

24 H. All requests for payment and supporting documentation shall be sent to:  
25 Business Manager  
26 County of Fresno  
27 Department of Public Works and Planning  
28 Financial Services Division  
2220 Tulare Street, 6<sup>th</sup> Floor  
Fresno, CA 93721  
[pwpbusinessoffice@fresnocountyca.gov](mailto:pwpbusinessoffice@fresnocountyca.gov) (if submitted by email)

1 I. The District shall establish accounting and bookkeeping procedures in  
2 accordance with standard accounting and bookkeeping practices, including, but not limited to,  
3 employee timecards, payrolls, and other records of all transactions to be paid with CDBG funds in  
4 accordance with the performance of this Agreement. All records and accounts shall be available  
5 for inspection by the County, the State of California, if applicable, the Comptroller General of the  
6 United States, and HUD or any of their duly authorized representatives, at all reasonable times for  
7 a period as specified in Section IV-G. The District shall certify accounts when required or requested  
8 by the County.

9 J. The District, as a subrecipient of Federal financial assistance, is required to  
10 comply with the provisions of the Single Audit Act Amendments of 1996 (31 U.S.C. Sections 7501  
11 et seq.). Whenever the District receives CDBG funds from the County for the Project, a copy of  
12 any audit performed by the District in accordance with said Act shall be forwarded to the County  
13 Community Development Grants Program Manager within nine (9) months of the end of any  
14 District fiscal year in which funds were expended and/or received for the Project. Failure to perform  
15 the requisite audit functions as required by this paragraph may result in the County performing any  
16 necessary audit tasks or, at the County's option, the County contracting with a public accountant  
17 to perform the audit. All audit costs related to the District's failure to perform the requisite audit are  
18 the sole responsibility of the District, and such audit work costs incurred by the County shall be  
19 billed to the District, as determined by County's Auditor-Controller/Treasurer-Tax Collector. In the  
20 event the District is only required to perform an audit under the provisions of the Act because the  
21 District is receiving CDBG funds, the County may perform, or cause to be performed, the required  
22 audit to determine whether funds provided through this Agreement have been expended in  
23 accordance with applicable laws and regulations. Any audit-related costs incurred by the County  
24 under this provision shall be charged to the County CDBG Program. The District agrees to take  
25 prompt and appropriate corrective action on any instance of material non-compliance with  
26 applicable laws and regulations.

27 K. The District shall send a copy of the audit to:

28 Community Development Grants  
County of Fresno

1 Department of Public Works and Planning  
2 Community Development Division  
3 2220 Tulare Street, 6<sup>th</sup> Floor  
4 Fresno, CA 93721

5 VI. INDEMNIFICATION

6 The District shall indemnify and hold harmless and defend the County (including its  
7 officers, agents, employees, and volunteers) against all claims, demands, injuries, damages,  
8 costs, expenses (including attorney fees and costs), fines, penalties, and liabilities of any kind to  
9 the County, the District, or any third party that arise from or relate to the performance or failure to  
10 perform by the District (or any of its officers, agents, subcontractors, or employees) under this  
11 Agreement. The County may conduct or participate in its own defense without affecting the  
12 District's obligation to indemnify and hold harmless or defend the County. The provisions of this  
13 Section VI shall survive the expiration or termination of this Agreement.

14 VII. TIME OF PERFORMANCE

15 A. The following schedule shall commence on the date this Agreement is  
16 executed by the County:

17 1. Award Construction Contract – January 14, 2025.

18 B. The Project shall be completed, and NOC shall be filed with the Fresno  
19 County Recorder's Office, no later than July 17, 2025.

20 C. The final POM Report, written summary of all work completed,  
21 documentation demonstrating compliance with Section 3 of the Housing and Urban Development  
22 Act of 1968, as amended, and request for final payment shall be submitted to the County no later  
23 than September 15, 2025.

24 D. The District shall give immediate written notification to the Division of any  
25 events that occur which may affect the above time schedule and completion date and the time  
26 schedule specified in the contract documents, or any event that may have significant impact upon  
27 the Project or affect the attainment of the Project's objectives. The Director is authorized to adjust  
28 the above schedule if, in the Director's judgment, any delay is beyond the control of the parties  
involved.

E. Time is of the essence in the District's performance of this Agreement.

1 VIII. BREACH OF AGREEMENT

2 In the event the District fails to comply with any of the terms of this Agreement, the  
3 County may, at its option, deem the District's failure a material breach of this Agreement, and utilize  
4 any remedies permitted by law that the County deems appropriate. Should the County deem a  
5 breach of this Agreement material, the County shall immediately be relieved of its obligations to  
6 make further payment as provided herein. Termination of this Agreement due to breach shall not,  
7 in any way whatsoever, limit the rights of the County in seeking any other legal relief in a court of  
8 law or equity, including the recovery of damages. In addition to the termination of the Agreement  
9 by the County due to a material breach of this Agreement by the Subrecipient, the County may  
10 also terminate this Agreement for convenience, in accordance with state and federal law.

11 IX. TERMINATION OF PROJECT

12 A. If the District wishes to cancel the Project covered by this Agreement, the  
13 District shall submit a request in writing to the Division explaining just cause for the request. The  
14 Director is authorized to approve such a request if, in the Director's judgment, there is just cause  
15 for the Project's cancellation.

16 B. If the District's request to cancel the Project covered by this Agreement is  
17 approved by the County, the District shall promptly return to the County all CDBG funds paid by  
18 the County to the District for the Project. The reimbursed amount of funds shall be applied towards  
19 the next project on the back-up list of the Annual Action Plan for the program year at the date of  
20 repayment.

21 X. VENUE; GOVERNING LAW

22 Venue for any action arising out of or relating to this Agreement shall only be in  
23 Fresno County, California. The rights and obligations of the parties and all interpretation and  
24 performance of this Agreement shall be governed in all respects by the laws of the State of  
25 California.

26 XI. ENTIRE AGREEMENT

27 This Agreement constitutes the entire agreement between the District and the  
28 County with respect to the subject matter hereof, and supersedes all previous negotiations,

1 proposals, commitments, writings, advertisements, publications, and understandings of any nature  
2 whatsoever unless expressly included in this Agreement.

3 XII. NO THIRD-PARTY BENEFICIARIES

4 This Agreement does not and is not intended to create any rights or obligations for  
5 any persons or entity except the parties. This Agreement is solely for the benefit of the County and  
6 the District and HUD, and there are no [other] intended third party beneficiaries of this Agreement.

7 XIII. AUTHORIZED SIGNATURES

8 The District represents and warrants to the County that:

9 A. The District is duly authorized and empowered to sign and perform its  
10 obligations under this Agreement.

11 B. The individual signing this Agreement on behalf of the District is duly  
12 authorized to do so and his or her signature on this Agreement legally binds the District to the  
13 terms of this Agreement.

14 XIV. ELECTRONIC SIGNATURES

15 The parties agree that this Agreement may be executed by electronic signature as  
16 provided in this section.

17 A. An "electronic signature" means any symbol or process intended by an  
18 individual signing this Agreement to represent their signature, including but not limited to (1) a  
19 digital signature; (2) a faxed version of an original handwritten signature; or (3) an electronically  
20 scanned and transmitted (for example by PDF document) version of an original handwritten  
21 signature.

22 B. Each electronic signature affixed or attached to this Agreement (1) is  
23 deemed equivalent to a valid original handwritten signature of the person signing this  
24 Agreement for all purposes, including but not limited to evidentiary proof in any administrative  
25 or judicial proceeding, and (2) has the same force and effect as the valid original handwritten  
26 signature of that person.

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1 C. The provisions of this section satisfy the requirements of Civil Code  
2 section 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division  
3 3, Part 2, Title 2.5, beginning with section 1633.1).

4 D. Each party using a digital signature represents that it has undertaken  
5 and satisfied the requirements of Government Code section 16.5, subdivision (a), paragraphs  
6 (1) through (5), and agrees that each other party may rely upon that representation.

7 E. This Agreement is not conditioned upon the parties conducting the  
8 transactions under it by electronic means and either party may sign this Agreement with an  
9 original handwritten signature.

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1 IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth on page  
2 one of this Agreement.

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Malaga County Water District

COUNTY OF FRESNO

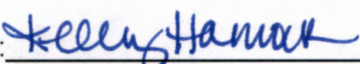
By:   
Charles E. Garabedian, Jr., President  
Board of Directors

  
Nathan Magsig, Chairman of the  
Board of Supervisors of the  
County of Fresno

Date: 11/12/2024

Date: 12.17.24

ATTEST:  
Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California

By:   
Deputy

FUND NO: 0001  
SUBCLASS NO: 10000  
ORG NO: 7205  
ACCOUNT NO: 7885  
PROJECT NO: N21451  
ACTIVITY CODE: 7219

REMIT TO:  
Malaga County Water District  
Attention: Charles E. Garabedian, Jr.,  
President, Board of Directors  
3580 S. Frank Street  
Fresno, CA 93725  
Telephone: (559) 485-7353

JA:JN  
G:\7205ComDev\Agendas-Agreements\STANDARD AGREEMENTS FOR CDBG\Standard Agreement (District)REV 6-15-23.docx  
October 4, 2024

**Exhibit 1  
County of Fresno  
Project Outcome Measurement Report**

Project #: 21451

Project Name: Malaga Wastewater Treatment Plant  
Nitrogen Reduction

The County of Fresno is required to submit information annually on each project funded with Community Development Block Grant (CDBG) funds, per U.S. Department of Housing and Urban Development (HUD) guidelines. As a recipient of CDBG funds from the County, the County requests that you provide the following information:

1. Years Reported: \_\_\_\_\_ through \_\_\_\_\_
  
2. Enter the number of persons assisted that:
  - a. Now have **new access** to this type of public facility or infrastructure improvement: \_\_\_\_\_ or N/A  
(New access to a public facility or infrastructure is when the facility did not previously exist and is provided for the first time.)
  
  - b. Now have **improved access** to this type of public facility or infrastructure improvement: \_\_\_\_\_ or N/A  
(Improved access to a public facility or infrastructure is when the facility or infrastructure is improved or expanded, enabling the grantee to expand the number of people or type of service the facility provides.)
  
  - c. Are served by this public facility or infrastructure improvement that **is no longer substandard**: \_\_\_\_\_ or N/A  
(A public facility or infrastructure is no longer substandard when the CDBG funds were used to meet a quality standard, or measurably improve the quality of the facility or infrastructure.)

(Note: The numbers of persons entered in a, b, and c, above, must add up to the total number of persons entered in question 3.)

3. Total number of persons assisted: \_\_\_\_\_
  
4. Please describe the accomplishments made on this project in the past year (i.e. construction progress). If the project is complete, please describe the overall accomplishments made on the project.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Form Completed By: \_\_\_\_\_

**Exhibit 2**

**Project Pay Request**

Date

Business Manager  
County of Fresno  
Department of Public Works and Planning  
Financial Services Division  
2220 Tulare Street, 6th Floor  
Fresno, CA 93721

Subject: Request for Payment, CDBG Project No. \_\_\_\_\_  
<District Name>  
<Project Title>

In accordance with the executed Agreement for the above-referenced project, the <District Name> is requesting payment of \$\_\_\_\_\_ for project costs.

The District certifies that this request for payment is consistent with the amount of work that has been completed to date, performed in accordance with the construction contract documents and the executed Agreement, and as evidenced by the enclosed invoices and supporting documents.

Payee	Invoice #	Amount
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Sincerely,

<District Manager>  
<District Name>

Enclosure(s)