

**CORONAVIRUS STATE LOCAL FISCAL RECOVERY FUNDS****AMENDMENT NO. 1 TO SUBRECIPIENT AGREEMENT**

This Amendment No. 1 to Subrecipient Agreement (“Amendment No. 1”) is dated April 23, 2024 and is between Malaga County Water District, a special district in the County of Fresno formed under Part 2 of Division 12 of the California Water Code, with a district office at 3580 South Frank Street, Fresno CA 93725 (“Subrecipient”), and the County of Fresno (“County”), a political subdivision of the State of California.

**Recitals**

A. On March 11, 2021, the President signed into law the American Rescue Plan Act of 2021 (“ARPA”) which established the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) Program.

B. The Final Rule for ARPA authorizes the County to expend SLFRF for certain eligible purposes, including responding to the public health emergency or its negative economic impacts from the COVID-19 pandemic, including necessary investment in water infrastructure that support impacted communities and improves the community’s resiliency to the effects of drought.

C. On August 9, 2022, the County and Subrecipient entered into County agreement number 22-339 (“Agreement”), to assist the Subrecipient with funding the final engineering design, environmental review, Department of Drinking Water permitting, construction and administration, construction review, operation and maintenance manual, and project management for the construction of a new water storage tank at Well 5A, which was necessary to comply with storage requirements as prescribed in California Waterworks Standards section 64554.

D. At the time of approval of the Agreement, the Subrecipient had a separate and complementary Agreement No. 22-172 for \$1,850,000 in SLFRF to make necessary investment in water infrastructure by funding the final engineering design, environmental review, Department of Drinking Water permitting, construction, and drilling of new groundwater well, Well Site 5.

E. The Subrecipient represents that since the Agreement was executed, design and planning has been completed for both Agreements and were simultaneously advertised to receive bids. The Subrecipient represents that the apparent low and responsible bidder exceeded the estimated

1 construction budgets as presented in the Agreement and the complementary Agreement No. 22-172.  
2 The Subrecipient represents that the reasons for the shortfall were the significant escalation of  
3 construction costs since the time the original funding applications were prepared and submitted to the  
4 County for funding consideration. The Subrecipient represents that the most significant areas of cost  
5 escalation are of those items made from steel and of those items associated with electrical and motor  
6 controls.

7 F. The Subrecipient represents that there are currently no other immediate sources of funding  
8 assistance, yet the need to construct Well 5A remains urgent.

9 G. Subrecipient desires to modify the scope of work and the expenditure plan of the Agreement No.  
10 22-339, from final engineering design, environmental review, Department of Drinking Water permitting,  
11 construction and administration, construction review, operation and maintenance manual, and project  
12 management for the construction of the new water storage tank for the Subrecipient's Well 5A to be  
13 constructed, to instead use SLFRF provided under the Agreement to fund the final engineering and  
14 design, planning, and advertisement of a storage tank for the Subrecipient's Well 5A, with a maximum  
15 compensation not to exceed \$87,663.67

16 H. The Final Rule has designated necessary investment in water infrastructure to be one that meets  
17 the eligibility requirements of the Drinking Water State Revolving Fund (DWSRF) as implemented by the  
18 Environmental Protection Agency (EPA), including the DWSRF eligible project category of storage, pre-  
19 construction (non-construction activities such as costs associated with engineering, planning, and  
20 design).

21 I. The Agreement currently provides \$2,567,225 in SLFRF funding. The Subrecipient estimates the  
22 actual costs to finalize the engineering design, environmental review, and program management to  
23 complete a specification plan and design of the storage tank at Well No. 5A will not exceed \$87,663.67  
24 under the existing Agreement. The Subrecipient represents that the completed plans and supporting  
25 documents will help the Subrecipient pursue other funding opportunities available to disadvantaged  
26 communities for the subsequent construction of the storage tank. The Subrecipient identified  
27 \$2,479,561.33 in remaining funds under the Agreement that can be reallocated to Agreement No. 22-  
28

1 172, which would address the anticipated financial deficit for the construction of a new groundwater well  
2 in the Community of Malaga, which is a higher priority project for the Subrecipient.

3 J. The Subrecipient represents that a Revised Expenditure Plan, as shown on the Revised Table 1-  
4 1 of Exhibit B is necessary to redefine the program and memorialize the proposed budget to only cover  
5 the expenditures to date and will finalize the engineering and design of the storage tank at Well No. 5A.

6 K. The County and the Subrecipient desire to amend the Agreement to revise the Program's  
7 Expenditure Plan and scope of work and reallocate unused funds to Agreement No. 22-172, which will  
8 be memorialized in a separate Amendment No.1 to Agreement 22-172.

9 The parties, therefore, agree as follows:

10 1. This Amendment No. 1 shall be retroactive to the Effective Date of the Agreement, August 9,  
11 2022.

12 2. The Agreement Recital on page 3, lines 1 through 8, is deleted in its entirety, and replaced with  
13 the following:

14 " WHEREAS, based on SUBRECIPIENT's representations, County will grant SLFRF to Subrecipient  
15 so that Subrecipient may fund the final engineering design, environmental review, funding  
16 administration, and project management to finalize the engineering and design of the storage tank at  
17 Well No. 5A. Completion of these tasks will help Subrecipient pursue other funding opportunities for  
18 the eventual construction of a new water storage tank, the construction of which will not be covered  
19 under this Agreement, but will eventually be necessary to maintain adequate and stable service  
20 levels, comply with storage requirements as prescribed in California Waterworks Standards section  
21 64554 capacity storage requirements for water systems, and provide for drought resiliency for the  
22 Community of Malaga (Program); and"

23 3. All references to "Exhibit B" in the Agreement shall be amended to refer to "Revised Exhibit B."  
24 Revised Exhibit B is attached to this Amendment No. 1 and incorporated by this reference.

25 4. Subsection D of Section 1, GENERAL OBLIGATIONS OF THE SUBRECIPIENT, of the  
26 Agreement located on page 4, line 1 through line 7, is deleted in its entirety, and replaced with the  
27 following:

1 “D. Subrecipient represents that it will use the SLFRF to fund the final engineering design,  
2 environmental review, funding administration, and project management to finalize the engineering  
3 and design of the storage tank at Well No. 5A, which will help Subrecipient pursue other funding  
4 opportunities for the eventual construction of a new water storage tank, which will be necessary to  
5 maintain adequate and stable service levels, comply with storage requirements as prescribed in  
6 California Waterworks Standards section 64554 capacity storage requirements for water systems,  
7 and provide for drought resiliency for the Community of Malaga.”

8 5. A portion of Subsection A of Section 13, GRANT FUNDING/COMPENSATION, of the  
9 Agreement located on page 15, line 12, through page 16, line 12, is deleted, and replaced with the  
10 following:

11 A. “The parties understand that funding for this Agreement is SLFRF provided pursuant to  
12 ARPA, codified at Title 31 CFR Part 35, and any amendments thereafter. County agrees to grant  
13 Subrecipient, and Subrecipient agrees to receive such grants, up to the total SLFRF grant, in an  
14 amount not to exceed eighty-seven thousand, six hundred sixty-three dollars and sixty-seven  
15 cents (\$87,663.67).

16 It is expressly agreed and understood that the total amount of SLFRF to be granted by  
17 County to Subrecipient for the Program shall not exceed eighty-seven thousand, six hundred  
18 sixty-three dollars and sixty-seven cents (\$87,663.67) to fund the final engineering design,  
19 environmental review, funding administration, and project management to finalize the  
20 engineering and design of the storage tank at Well No. 5A and will help Subrecipient pursue  
21 other funding opportunities for the eventual construction of the new water storage tank for the  
22 new groundwater Well No. 5A, which is a necessary investment to respond to the drinking water  
23 needs of the community of Malaga. Drawdown requests for the County to make a payment shall  
24 be in accordance with the sample Drawdown Request Form, attached as Exhibit B, and  
25 incorporated by this reference. Drawdowns for the payment of eligible necessary expenses shall  
26 include copies of purchase orders, receipts, and reimbursement requests, detailing items  
27 purchased, and expenses incurred or anticipated to be incurred in support of the Program for  
28 eligible items listed in Revised Table 1-1 of Revised Exhibit B of this Agreement.

1           Subrecipient may make drawdown requests to a maximum of twenty-one thousand, nine  
2 hundred fifteen dollars and ninety-two cents (\$21,915.92), equivalent, when rounded, to twenty-  
3 five percent (25%) of the Program's total budgeted amount (\$87,663.67) for advancements to  
4 cover eligible expenditures in support of the Program. Drawdown requests from Subrecipient to  
5 the County shall be accompanied by a written certification from the Subrecipient that the  
6 drawdown request for payment is consistent with the amount of work scheduled to be performed  
7 with the amount of funding being requested from the COUNTY, and that the drawdown request  
8 is in accordance with the Program detailed in Table 1-1 of Exhibit B of this Agreement, including  
9 supporting documentation of such eligible expenditures or anticipated eligible expenditures. After  
10 appropriate review and inspection of the drawdown requests, the COUNTY shall make payments  
11 available to SUBRECIPIENT in a timely manner. SUBRECIPIENT may make additional  
12 subsequent drawdown requests to the COUNTY on a quarterly basis (every 90 days) for eligible  
13 expenditures to be funded with the remaining balance of the Program's budget in accordance  
14 with this Agreement."

15       6. A portion of Exhibit A, Program Description of the Agreement, located on page 26, lines 12  
16 through 19, is deleted, and replaced with the following:

17           "The Program will fund the final engineering design, environmental review, funding  
18 administration, and project management to prepare Well Site 5A for the eventual construction of  
19 a new water storage tank, which is necessary to maintain adequate and stable service levels,  
20 comply with storage requirements as prescribed in California Waterworks Standards section  
21 64554 capacity storage requirements for water systems, and provide for drought resiliency for  
22 the Community of Malaga. The Subrecipient will seek other funding sources for the construction  
23 and completion of the water storage tank. The Program is responsive to an identified need in the  
24 Community of Malaga, as it will eventually increase drinking water resiliency, maintain adequate  
25 and stable service levels, improve drought resiliency, and increase drinking water capacity for  
26 the Disadvantaged Community of Malaga. Subrecipient represents that the Program qualifies  
27 under the DWSRF eligible project category of water storage. The Community of Malaga is  
28

1 designated as a Disadvantaged Community, with an average median household income of  
2 \$41,321 (census tract 06019001500).”

3 7. A portion of Section 21, NOTICES, of the Agreement located on page 22, lines 23 through 25, is  
4 amended to update the Subrecipient’s contact information as follows:

5 SUBRECIPIENT  
6 Malaga County Water District  
7 3580 South Frank Street  
8 Fresno, CA 93725  
9 Attn: General Manager

10 8. Exhibit C – Template Quarterly Expenditure Report in the Agreement shall be amended to reflect  
11 the decreased maximum compensation provided added to the Agreement. “Revised Exhibit C” is  
12 attached to this Amendment No. 1 and incorporated by this reference. All references to Exhibit C shall  
13 be amended to instead refer to “Revised Exhibit C.”

14 9. The Subrecipient represents and warrants to the County that:

- 15 a. The Subrecipient is duly authorized and empowered to sign and perform its obligations under  
16 this Amendment No. 1.  
17 b. The individual signing this Amendment No. 1 on behalf of the Subrecipient is duly authorized  
18 to do so and his or her signature on this Amendment No. 1 legally binds the Subrecipient to  
19 the terms of this Amendment No. 1.

20 10. The parties agree that this Amendment No. 1 may be executed by electronic signature as  
21 provided in this section.

- 22 a. An “electronic signature” means any symbol or process intended by an individual signing this  
23 Amendment No. 1 to represent their signature, including but not limited to (1) a digital  
24 signature; (2) a faxed version of an original handwritten signature; or (3) an electronically  
25 scanned and transmitted (for example by PDF document) version of an original handwritten  
26 signature.  
27 b. Each electronic signature affixed or attached to this Amendment No. 1 is deemed equivalent  
28 to a valid original handwritten signature of the person signing this Amendment No. 1 for all  
purposes, including but not limited to evidentiary proof in any administrative or judicial

1 proceeding, and (2) has the same force and effect as the valid original handwritten signature  
2 of that person.

3 c. The provisions of this section satisfy the requirements of Civil Code section 1633.5,  
4 subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3, Part 2, Title  
5 2.5, beginning with section 1633.1).

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

9 e. This Amendment No. 1 is not conditioned upon the parties conducting the transactions under  
10 it by electronic means and either party may sign this Amendment No. 1 with an original  
11 handwritten signature.

12 11. This Amendment No. 1 may be signed in counterparts, each of which is an original, and all of  
13 which together constitute this Amendment No. 1.

14 12. The Agreement as amended by this Amendment No. 1 is ratified and continued. When both  
15 parties have signed this Amendment No. 1, the Agreement and this Amendment No. 1 together  
16 constitute the Agreement. All provisions of the Agreement and not amended by this Amendment No. 1  
17 remain in full force and effect.

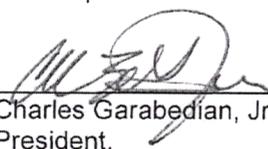
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The parties are signing this Amendment No. 1 on the date stated in the introductory clause.

Subrecipient

County of Fresno

  
\_\_\_\_\_  
Charles Garabedian, Jr.  
President,  
Malaga County Water District

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

Mailing Address:  
Malaga County Water District  
3580 South Frank Street  
Fresno, Ca 93725

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

By:   
\_\_\_\_\_  
Deputy

For accounting use only:  
Org: 1033  
Fund: 0026  
Subclass: 91021  
Account: 7845

## **Revised Exhibit B**

### **Subrecipient Expenditure Plan**

SUBRECIPIENT shall provide to COUNTY drawdown requests for payments for eligible expenses to complete the Program. SUBRECIPIENT may make drawdown requests to a maximum of twenty-one thousand, nine hundred fifteen dollars and ninety-two cents (\$21,915.92), equivalent, when rounded, to twenty-five percent (25%) of the Program's total budgeted amount (\$87,663.67), to cover eligible expenditures in support of the Program. Drawdown requests shall be made on a quarterly basis (every 90 days). SUBRECIPIENT shall use the Drawdown Request Form to submit detailed drawdown requests for eligible expenses, and include copies purchase orders, receipts, and reimbursement requests, detailing items purchased, and expenses incurred or anticipated to be incurred in support of the Program as represented in Table 1-1, below.

Revised Exhibit B (continued)

Revised Table 1-1	
Revised Expenditure Plan - Malaga CWD	
Line Items	Budget
Final Design and Final Environmental Review	\$ 66,136.87
State, Department of Drinking Water Approval Advertisement	\$ 11,153.40
Funding Administration	\$ 4,823.50
Project Management	\$ 5,549.90
SLFRF Total Award	\$ 87,663.67

**Revised Exhibit B (continued) – Payment Request Form**

Date:

County of Fresno  
ARPA - SLFRF Coordinator  
2281 Tulare Street, Room 304  
Fresno, CA 93721

Subrecipient Name; Address; UEI

**Subject: Payment Request for:**

**Subrecipient Program**

**Agreement No.**

In accordance with the executed Agreement for the above-referenced Program, the [SUBRECIPIENT NAME] is requesting payment of \$ \_\_\_\_\_ in support of the Program.

The [SUBRECIPIENT NAME] certifies that this request for payment is consistent with the amount of work that has been completed to date, detailing items purchased, and expenses incurred or anticipated to be incurred in support of the Program in accordance with the Subrecipient Expenditure Plan (Revised Exhibit B, Table 1-1) documented in the executed Agreement, and as evidenced by the enclosed invoices and supporting documents.

**Payee**

**Invoice # / Contract #**

**Amount**

Sincerely,

[Subrecipient Signature, title, and  
Title]

Enclosure(s)

**Exhibit C  
Template Quarterly Expenditure Report**

PROGRAM	
<b>Unique Entity Identifier (UEI):</b>	<b>Agreement Number:</b>
<b>Name of Entity:</b>	<b>Program Name:</b>
<b>Reporting Period State Date:</b>	<b>Reporting Period End Date:</b>
<b>Expenditure Category: 5 – Infrastructure, Water</b>	
<b>Total Award: \$87,663.67</b>	<b>Remaining Balance:</b>

EXPENDITURES					
Category		Cumulative Expenditures to date (\$)	Cumulative Obligations to date (\$)	Current Period Expenditures	Current Period Obligations
<b>5</b>	<b>Infrastructure, Water</b>				
5.14	Drinking Water: Storage				
<b>TOTAL</b>					

Describe program achievements and upcoming milestones:

Quarterly Status Report, select one:

<input type="checkbox"/>	Not started
<input type="checkbox"/>	Completed less than 50 percent
<input type="checkbox"/>	Completed more than 50 percent
<input checked="" type="checkbox"/>	<b>Completed</b>

**PROJECT STATUS**

**AUTHORIZED SIGNATURE**

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

Prepared by \_\_\_\_\_  
(Print name)