A G R E E M E N T

THIS AGREEMENT ("Agreement") is made this 8th day of October, 2019 ("Effective Date"), by and between the COUNTY OF FRESNO, a political subdivision of the State of California, ("County"), and the CARUTHERS COMMUNITY SERVICES 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 of 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 Caruthers Water Valve Replacement, Phase II, Project No. 18111 ("Project"), for CDBG funding; and

WHEREAS, the District has estimated that the total cost of the Project is $250,000, and the District has requested the sum of $250,000 from the County's allocation of CDBG funds; and

WHEREAS, the County Board of Supervisors, at a public hearing conducted on June 5, 2018, approved the Project as a project on the back-up list should funding become available; and

WHEREAS, there are now sufficient CDBG funds available to fund the next project on the back-up list, which is this Project; and

WHEREAS, the Project is consistent with the objectives of the Fresno County Consolidated Plan, including the annual Action Plan.

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

I. PROJECT DESCRIPTION, LOCATION AND BUDGET

A. The Project consists of the replacement of up to twenty (20) water valves at various locations throughout the District. The improvements will satisfy the requirements of the Regional Water Quality Control Board, improve system isolation capability, and prevent

contamination of the water system.

B. The Project site locations are owned by the District or are in public right-of-ways.

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

1. Obtain all necessary permits.

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

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

4. Perform all construction engineering including, but not limited to, shop drawing review and approval, contract change order preparation, surveying, staking, inspection, soil testing, materials testing, preparation of "as-built" drawings, labor compliance, and contract administration.

5. Provide related eligible improvements.

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

Construction	$168,000
Design & Construction Engineering	50,000
Contingency, Permits & Misc.	32,000
Total	$250,000

E. Notwithstanding District's estimates described in the above Project budget, payments for the Project from CDBG funds will be limited to the District's actual costs, and shall not exceed the total amount of $250,000.

F. The proposed funding for the Project will be provided from the following sources:

CDBG	$250,000
Local Financial Contribution	0
Total	$250,000

G. Prior to any changes that may occur which would modify the scope of the

Project, the District shall submit a written request to the County. The District shall send its written request to:

Community Development Grants
County of Fresno
Department of Public Works and Planning
Community Development Division
2220 Tulare Street, 6th Floor
Fresno, CA 93721

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

II. OBLIGATIONS OF THE COUNTY

A. The County shall reimburse the District up to, but not more than, $250,000 of CDBG funds for the Project for the District's performance of its obligations under this Agreement. All funds shall be paid in accordance with Section V of this Agreement.

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

C. The County shall review, within forty-five (45) calendar days of receipt from the District, the design plans and specifications for the Project, as prepared by the District, for compliance with Federal regulations, conformance with applicable code requirements sufficient to allow for construction-related permit issuance, and the total Project cost estimate to ensure sufficient funds are available to complete the Project. If such conditions have been met, the County shall specify in a letter to the District that these conditions have been met and that the Project can be advertised.

D. The County shall also review, within twenty-one (21) calendar days of

receipt from the District, the name of the low bidder and cost or price analysis of the low bid proposal prepared by the District to determine whether the contractor will be reasonably compensated in accordance with Federal requirements, and to verify that the contractor is bonded and has not been disbarred or suspended from participating in Federal projects. The County shall specify in a letter to the District that the conditions of this Section have been met and that the contract can be awarded.

E. The County shall attend the pre-construction meeting between the District and the contractor to discuss labor compliance requirements for the Project, Project monitoring, and to inform the District and contractor that the County will conduct field reviews to ensure labor compliance and other conditions of the construction contract are being met.

F. The County shall conduct periodic inspections of the Project, as may be required in the determination of the County, to ensure that the intended use and group of beneficiaries of the Project have not changed. Upon completion of the Project, but prior to the District's acceptance of the Project, the County shall conduct a final inspection of the Project. If such conditions have been met, the County shall specify in a letter to the District that these conditions have been met.

III. OBLIGATIONS OF THE DISTRICT

A. The District shall provide any and all sums of money in excess of $250,000 that may be necessary to complete the Project. For the purposes of awarding the construction of the Project within the Agreement amount, the bid documents shall include any proposed additive or deduct alternatives.

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

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

D. In selecting an engineer to perform any engineering work required for the

Project, the District shall go through a competitive process in accordance with Fresno County Ordinance Code 4.10 and HUD procurement standards. Prior to selection of the engineer, the District shall prepare a written description of the process, perform a cost or price analysis, and submit the process description and summary of the analysis to the County Community Development Division for review. The District shall obtain a letter from the County specifying that the conditions of this Section have been met.

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

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

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

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

I. Within seven (7) calendar days following the bid opening, the District shall furnish the Community Development Division with the name of the low bidder and cost or price analysis of the low bid proposal prepared by the District so that the County can verify with the Labor Relations and Equal Opportunity Division of the HUD Area Office that the low bidder has not been debarred or suspended from participating in Federal projects, and that the contractor will be reasonably compensated in accordance with Federal requirements. The District shall obtain a

letter from the County specifying these conditions have been met, and that the District is approved to award the Project for construction.

J. The District shall conduct a pre-construction meeting with the contractor and shall notify the County Community Development Division at least ten (10) calendar days prior to the meeting so a representative of the County can attend to discuss CDBG labor compliance requirements for the Project.

K. Prior to the construction start date, the District shall give written notice thereof, to include a copy of the executed contract between the District and the Contractor and the Notice to Proceed to the County Community Development Division.

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

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

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

Community Development Grants
County of Fresno
Department of Public Works and Planning
Community Development Division
2220 Tulare Street, 6th Floor
Fresno, CA 93721

O. The District shall comply with the mitigation measures, conditions and notes identified in Initial Study/Environmental Assessment No. 7022 (the "Assessment"). A copy of the

Assessment will be provided to the District.

P. Upon completion of the Project, the District shall notify the County Community Development Division so a representative of the Division can perform an inspection of the Project to determine that it was completed in accordance with the scope of work approved and authorized pursuant to this executed Agreement.

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

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

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

S. The District shall be responsible for maintenance of the Project after

construction is completed, and shall perform such maintenance from non-CDBG resources.

T. The District must inform the County in writing of any program income generated by the expenditure of CDBG funds. Any program income generated as a result of the Project must be paid to the County. For purposes of this Agreement, program income is defined as proceeds from the disposition of CDBG-acquired real property, and principal and interest on CDBG loans. If the District contributed financially to the improvement Project, the District may retain a share of the program income in proportion to the District's contribution to the Project, after the District has provided a written accounting acceptable to the County.

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

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

IV. CONFORMANCE WITH APPLICABLE LAWS AND REGULATIONS

A. The District shall, and shall cause its consultants, contractors, and

subcontractors to, comply with all applicable State and Federal laws and regulations governing the Project.

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

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

D. Because the City is receiving at least $100,000 for this Project from the County's CDBG Program under this Agreement, the District shall complete and submit to the County Community Development Division a "Certification of Payments to Influence Federal Transactions" form and a "Standard Form LLL - Disclosure of Lobbying Activities" form. Likewise, before the District awards a contract using at least $100,000 of such CDBG funds, the District shall require the consultant and/or contractor and all their sub-consultants and/or subcontractors to complete and submit these two (2) forms described hereinabove to both the District and the County.

V. PAYMENT FOR THE PROJECT

A. At monthly intervals, the District shall submit a written request to the County for payment of specified costs incurred in the performance of this Agreement. The request for the County to make such a payment shall be in accordance with the exemplar Project Pay Request Form attached hereto as Exhibit 2 and incorporated herein by reference. The request shall also be accompanied by a written certification from the District that the request for payment is consistent with the amount of work that has been completed, and that said work is in accordance with the construction contract documents and this Agreement. The request for payment shall also be accompanied by documentation acceptable to the County, such as checks, invoices or vouchers for services or materials purchased, contractor's costs or other costs chargeable to the Project.

The first construction progress payment request shall also be accompanied by documentation demonstrating that all construction-related required permits have been issued by the County. After appropriate review and inspection, the County shall make payment from CDBG funds provided in this Agreement for all eligible costs specified herein up to the maximum amount payable under Section I.

B. Any savings realized in the final cost of the Project, due to Project cost and/or scope of work reductions, liquidated damages, or any other reason, shall be used to reduce the amount of this Project paid for with CDBG funds.

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

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

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

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

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

H. All requests for payment and supporting documentation shall be sent to:

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

I. The District shall establish accounting and bookkeeping procedures in accordance with standard accounting and bookkeeping practices, including, but not limited to, employee timecards; payrolls; and other records of all transactions to be paid with CDBG funds in accordance with the performance of this Agreement. All records and accounts shall be available for inspection by the County, the State of California, if applicable, the Comptroller General of the United States, and HUD or any of their duly authorized representatives, at all reasonable times for a period of at least five (5) years following final payment under this Agreement, or the closure of all other pending matters, whichever is later. The District shall certify accounts when required or requested by the County.

J. The District, as a subrecipient of Federal financial assistance, is required to comply with the provisions of the Single Audit Act of 1984 (31 U.S.C. Sections 7501 et seq.), as amended. Whenever the District receives CDBG funds from the County for the Project, a copy of any audit performed by the District in accordance with said Act shall be forwarded to the County Community Development Grants Program Manager within nine (9) months of the end of any District fiscal year in which funds were expended and/or received for the Project. Failure to perform the requisite audit functions as required by this paragraph may result in the County performing any necessary audit tasks or, at the County's option, the County contracting with a public accountant to perform the audit. All audit costs related to the District's failure to perform the requisite audit are the sole responsibility of the District, and such audit work costs incurred by the County shall be billed to the District, as determined by County's Auditor-Controller/Treasurer-Tax Collector. In the event the District is only required to perform an audit under the provisions of the Act because the District is receiving CDBG funds, the County may perform, or cause to be performed, the required audit to determine whether funds provided through this Agreement have been expended in accordance with applicable laws and regulations. Any audit-related costs incurred by the County

under this provision shall be charged to the County CDBG Program. The District agrees to take prompt and appropriate corrective action on any instance of material non-compliance with applicable laws and regulations.

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

Community Development Grants
County of Fresno
Department of Public Works and Planning
Community Development Division
2220 Tulare Street, 6th Floor
Fresno, CA 93721

VI. INDEMNIFICATION

The District shall indemnify, defend, and save harmless the County, its officers, agents, and employees from and against any and all damages, claims, or losses whatsoever (including attorney's fees and costs) occurring or resulting to persons, firms, or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all damages, claims, or losses (including attorney's fees and costs) occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the District's performance of, or failure to perform, its obligations under this Agreement. The provisions of this Section VI shall survive the termination of this Agreement.

VII. TIME OF PERFORMANCE

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

1. Complete Consultant Engineer Selection process – October 11, 2019.

2. Complete Design Engineering and Submit to the County for Review – February 28, 2020.

3. Complete County Review and Approval of Plans – May 29, 2020.

4. Begin Advertising for Bids – June 19, 2020.

5. Award Construction Contract – October 13, 2020.

B. The Project shall be completed, and Notice of Completion shall be filed with

the Fresno County Recorder's Office, no later than April 30, 2021.

C. The final POM Report, written summary of all work completed, documentation demonstrating compliance with the Section 3 clause, and request for final payment shall be submitted to the County no later than June 30, 2021.

D. The District shall give immediate written notification to the County Community Development Division of any events that occur which may affect the above time schedule and completion date and the time schedule specified in the contract documents, or any event that may have significant impact upon the Project or affect the attainment of the Project's objectives. The Director is authorized to make adjustments in 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.

VIII. BREACH OF AGREEMENT

In the event the District fails to comply with any of the terms of this Agreement, the County may, at its option, deem the District's failure a material breach of this Agreement, and utilize any of the remedies set forth in 24 CFR 85.43, or any other remedies that the County deems appropriate. Should the County deem a breach of this Agreement material, the County shall immediately be relieved of its obligations to make further payment as provided herein. Termination of this Agreement due to breach shall not, in any way whatsoever, limit the rights of the County in seeking any other legal relief in a court of law or equity, including the recovery of damages. In addition to the Agreement being terminated by the County in accordance with a material breach of this Agreement by the District, this Agreement may also be terminated for convenience by the County in accordance with 24 CFR 85.44.

IX. TERMINATION OF PROJECT

A. If the District decides to cancel the Project covered by this Agreement, the District shall submit a request in writing to the County Department of Public Works and Planning, Community Development Division explaining just cause for the request. The Director is authorized to approve such a request if, in the Director's judgment, there is just cause for the Project's cancellation.

B. If the District's request to cancel the Project covered by this Agreement is approved by the Director, the District shall promptly return to the County all CDBG funds paid pursuant to this Agreement.

X. VENUE; GOVERNING LAW

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

XI. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the District and the County, with respect to the subject matter hereof and supersedes all previous negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever unless expressly included in this Agreement.

///

///

///

///

///

///

///

///

///

///

///

///

///

///

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first hereinabove written.

CARUTHERS COMMUNITY SERVICES DISTRICT

By: _____
President/Superintendent/
Chairman/Manager

Date: 8-19-19

COUNTY OF FRESNO

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

Date: October 8, 2019

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: N18111
ACTIVITY CODE: 7219

REMIT TO:

Caruthers Community Services District
Attention: David McIntyre, District Manager
P.O. Box 218
Caruthers, CA 93609
Telephone: (559) 864-8189

SW JA:___
G:\7205ComDev\~Agendas-Agreements\2019\1008_CaruthersWaterValveReplacementPhIICDBG18111_Agt.docx
July 19, 2019

Exhibit 1
County of Fresno
Project Outcome Measurement Report

Project #: _____ Project Name: _____

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

Sincerely,

<District Manager>
<District Name>

Enclosure(s)