

1 **CORONAVIRUS STATE LOCAL FISCAL RECOVERY FUNDS**

2 **AMENDMENT NO. 1 TO SUBRECIPIENT AGREEMENT**

3 This Amendment No. 1 to Subrecipient Agreement (“Amendment No. 1”) is dated
4 _____ and is between the City of Mendota, a California municipal corporation and
5 general law city, with an office at 643 Quince Street, Mendota, CA 93640 (“Subrecipient”), and the
6 County of Fresno (“County”), a political subdivision of the State of California.

7 **Recitals**

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

11 B. The Final Rule for ARPA authorizes the County to expend SLFRF for certain eligible purposes,
12 including responding to the public health emergency or its negative economic impacts from the COVID-
13 19 pandemic, including necessary investment in water infrastructure that support impacted communities
14 and improves the community’s resiliency to the effects of drought.

15 C. On November 29, 2022, the County and Subrecipient entered into County agreement number
16 22-539 (“Agreement”), to assist the Subrecipient with funding the planning, engineering design,
17 environmental review, administration, construction cost, and project management for the construction of
18 a new 200,000 water storage tank and pump station on the Subrecipient-owned parkland along Smoot
19 Avenue, which will be equipped with three booster pumps designed to correct a water system pressure
20 deficiency in the southwest portion of the water distribution system during peak hour demand, and which
21 will assist the Subrecipient to meet the fire flow requirement standard for firefighting, and provide water
22 storage for the Subrecipient’s drought resiliency (Program).

23 D. The Subrecipient represents that since the execution of the Agreement, the program has
24 encountered cost distributions and unanticipated construction cost increases that necessitate a
25 reallocation of funds within the Program’s existing expenditure categories.

26 E. The Subrecipient represents that the program is currently ready for bid advertisement and that
27 \$1.3 million of local funds have been budgeted to cover additional anticipated construction costs and
28 construction-related contingencies.

1 F. The Subrecipient represents that the Program would benefit from a modification to the
2 Expenditure Plan, which would reduce the Subrecipient's administrative burden to recover allowable
3 costs for allocated line items even if they change during the construction process. A Revised
4 Expenditure Plan, as shown on the Revised Table 1-1 of Revised Exhibit B, is necessary to correct
5 program allocations and memorialize the approved budget to cover the impact of increased
6 expenditures.

7 G. The County and the Subrecipient desire to amend the Agreement to revise the Program's
8 Expenditure Plan and reallocate funds within the Program and allow the County's Administrative Officer
9 or his/her designee to approve minor budgetary modifications to the Agreement as necessary and
10 appropriate, and update the language in Section 1H, Timeline, in Section 17, Hold Harmless, and
11 Section 21, Notices.

12 The parties, therefore, agree as follows:

13 1. This Amendment No. 1 shall be retroactive to the Effective Date of the Agreement, November
14 29, 2022.

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

17 3. Subsection H of Section 1, located on page 6, line 20 through page 7, line 2, shall be deleted in
18 its entirety, and replaced with the following:

19 "H. Timeline. Subrecipient shall ensure that the Program is diligently undertaken and completed, and
20 all SLFRF granted under this Agreement are fully expended, no later than June 30, 2026. By August
21 31, 2024, Subrecipient shall analyze, and shall report to County in writing, whether it can complete
22 the Program or fully expend the SLFRF granted under this Agreement by June 30, 2026. If
23 Subrecipient is not capable of completing the Program or fully expending the SLFRF granted under
24 this Agreement on the Program by June 30, 2026, Subrecipient shall return any previously issued
25 SLFRF, which have not been bindingly obligated to a permissible use, to County within fifteen
26 calendar days."

27 4. Section 15, MODIFICATION, of the Agreement, located on page 18, line 28 through page 19,
28 line 1, is deleted in its entirety, and replaced with the following:

1 "Any matters of this Agreement may be modified from time to time by the written consent of all
2 the parties without, in any way, affecting the remainder. Changes to line items, as set forth in
3 Revised Exhibit B, that, when added together during the term of the Agreement do not exceed
4 ten percent (10%) of the total maximum compensation payable to Subrecipient, may be made
5 with the written approval of Subrecipient and County's Administrative Officer or designee. These
6 modifications shall not result in any change to the maximum compensation amount payable to
7 Subrecipient, as described in this Agreement."

8 5. A portion of Section 17, HOLD HARMLESS, of the Agreement, located on page 19, lines 5
9 through 13, is deleted and replaced with the following:

10 "The SUBRECIPIENT shall indemnify and hold harmless and defend the County (including its
11 officers, agents, employees, and volunteers) against all claims, demands, injuries, damages,
12 costs, expenses (including attorney fees and costs), fines, penalties, and liabilities of any kind to
13 the County, the SUBRECIPIENT, or any third party that arise from or relate to the performance
14 or failure to perform by the SUBRECIPIENT (or any of its officers, agents, subcontractors, or
15 employees) under this Agreement. The County may conduct or participate in its own defense
16 without affecting the SUBRECIPIENT's obligation to indemnify and hold harmless or defend the
17 County."

18 6. A portion of Section 21, NOTICES, of the Agreement, located on page 23, lines 16 through 19, is
19 deleted and replaced with the following:

20 "COUNTY
21 COUNTY OF FRESNO
22 ARPA - SLFRF Coordinator
23 2281 Tulare Street, Room 304
Fresno, CA 93721

SUBRECIPIENT
City of Mendota
643 Quince Street
Mendota, CA 93640
Attn: Cristian Gonzalez,
City Manager"

24 7. The Subrecipient represents and warrants to the County that:

- 25 a. The Subrecipient is duly authorized and empowered to sign and perform its obligations under
26 this Amendment No. 1.
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28

1 b. The individual signing this Amendment No. 1 on behalf of the Subrecipient is duly authorized
2 to do so and his or her signature on this Amendment No. 1 legally binds the Subrecipient to
3 the terms of this Amendment No. 1.

4 8. The parties agree that this Amendment No. 1 may be executed by electronic signature as
5 provided in this section.

6 a. An “electronic signature” means any symbol or process intended by an individual signing this
7 Amendment No. 1 to represent their signature, including but not limited to (1) a digital
8 signature; (2) a faxed version of an original handwritten signature; or (3) an electronically
9 scanned and transmitted (for example by PDF document) version of an original handwritten
10 signature.

11 b. Each electronic signature affixed or attached to this Amendment No. 1 is deemed equivalent
12 to a valid original handwritten signature of the person signing this Amendment No. 1 for all
13 purposes, including but not limited to evidentiary proof in any administrative or judicial
14 proceeding, and (2) has the same force and effect as the valid original handwritten signature
15 of that person.

16 c. The provisions of this section satisfy the requirements of Civil Code section 1633.5,
17 subdivision (b), in the Uniform Electronic Transaction Act (Civil Code, Division 3, Part 2, Title
18 2.5, beginning with section 1633.1).

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

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

25 9. This Amendment No. 1 may be signed in counterparts, each of which is an original, and all of
26 which together constitute this Amendment No. 1.

27 10. The Agreement as amended by this Amendment No. 1 is ratified and continued. All provisions of
28 the Agreement and not amended by this Amendment No. 1 remain in full force and effect. When both


1 parties have signed this Amendment No. 1, the Agreement and this Amendment No. 1 together
2 constitute the Agreement.

3 [SIGNATURE PAGE FOLLOWS]
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1 The parties are signing this Amendment No. 1 on the date stated in the introductory clause.

2 Subrecipient

County of Fresno

3
4 
5 Cristian Gonzalez,
6 City Manager
City of Mendota

Ernest "Buddy" Mendes, Chairman of the
Board of Supervisors of the County of Fresno

7
8 Mailing Address:
9 643 Quince Street
Mendota, CA 93640

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

10 By:

11 Deputy

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

Revised Exhibit B

Expenditure Plan

SUBRECIPIENT shall request the COUNTY to transfer SLFRF to fund the Program's soft costs that consist of planning, design, construction management, and administration costs for an amount not to exceed two hundred fifty-five thousand dollars (\$255,000) to cover eligible expenditures shown on Table 1-1 of this Revised Exhibit B. The SUBRECIPIENT is responsible for approving Program expenditures, monitoring, and reporting quarterly expenditure reports directly to the TREASURY. In accordance with Section 3(B) of the Agreement, SUBRECIPIENT shall submit copies of its Program's quarterly expenditure reports, project progress reports, and supporting documentation to the COUNTY. The SUBRECIPIENT plans to construct the water storage tank and pump station on SUBRECIPIENT-owned parkland located along Smoot Avenue and east of Amador Avenue in the Mendota city limits. The SUBRECIPIENT shall then make a second written request to the COUNTY to transfer SLFRF in advance for the construction phase of the Program's budget in accordance with this Agreement. The SUBRECIPIENT's transfer requests to COUNTY shall include supporting information for the implementation of the Program as represented in Table 1-1, below.

Revised Exhibit B (continued)

Revised Table 1-1

Table 1-1 Expenditure Plan				
Original			Amended Budget	
Expenditures Line Items	Budget	Increases	Decreases	Final Budget
Construction Costs	\$ 2,000,000.00	\$ 210,000.00		\$ 2,210,000.00
Contingencies	\$ 210,000.00		\$ (210,000.00)	\$ -
Allowances (Soft Costs)				
Planning	\$ 35,000.00		\$ (2,000.00)	\$ 33,000.00
Design	\$ 120,000.00	\$ 45,000.00		\$ 165,000.00
Construction Management	\$ 95,000.00		\$ (43,000.00)	\$ 52,000.00
Administration	\$ 5,000.00			\$ 5,000.00
Totals	\$ 2,465,000.00	\$ 255,000.00	\$ (255,000.00)	\$ 2,465,000.00
*Numbers in this table do not increase the maximum funding provided in the Agreement.				