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AGREEMENT

THIS AGREEMENT ("Agreement") is made this ____ day of _____, 2023 ("Effective Date"), by and between the COUNTY OF FRESNO, a political subdivision of the State of California ("County"), and the BIOLA 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 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 Biola Groundwater Recharge, Project No. 21032 ("Project"), to the County for CDBG funding; and

WHEREAS, the District has estimated that the total cost of the Project is \$300,000, and the District has requested the sum of \$300,000 in CDBG funds be made available for the Project; and

WHEREAS, at a public hearing conducted on May 11, 2021, the County Board of Supervisors approved as part of approving the County's 2021-2022 Annual Action Plan, the usage of \$250,000 in CDBG funds for the Project, as requested by the District; and

WHEREAS, the County's Housing and Community Development Citizens Advisory Committee, at a public meeting on October 18, 2023, recommended that CDBG funding for the Project be increased from \$250,000 to \$300,000, as requested by the District due to increased construction costs; and

WHEREAS, there is \$300,000 in CDBG funds that may be made available to the District for the Project this fiscal year; 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

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

3 WHEREAS, the Project is consistent with the objectives of the Fresno County Consolidated
4 Plan, including the 2021-2022 Annual Action Plan.

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

7 I. PROJECT DESCRIPTION, LOCATION AND BUDGET

8 A. The Project consists of a three-acre expansion of an existing two-acre storm
9 drainage basin for a five-acre total groundwater recharge basin, and installation of a six-foot chain
10 link fence around the enlarged drainage basin. The existing drainage basin will be improved and
11 expanded to accommodate additional water storage and infiltration. The project is located south
12 of the Gettysburg Avenue alignment, approximately between the 3rd Avenue and 4th Avenue
13 alignments.

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

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

16 1. Obtain all necessary permits.

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

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

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

27 5. Provide related eligible improvements.

28

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

2	Construction	\$227,273
	Design & Construction Engineering	50,000
3	Contingency, Permits & Misc.	<u>22,727</u>
4	Total	\$300,000

5 E. Notwithstanding District’s estimates described in the above-described
6 Project budget, payments for the Project from CDBG funds shall be limited to the District’s actual
7 costs, and in any event shall not exceed the total amount of \$300,000. In the event CDBG funds
8 are not sufficient, the District shall in any event complete the Project using its own funds.

9 F. The proposed funding for the Project shall be provided from the following
10 sources:

11	CDBG	\$300,000
12	Local Financial Contribution	<u>0</u>
	Total	\$300,000

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

16 Community Development Grants
17 County of Fresno
18 Department of Public Works and Planning
19 Community Development Division
20 2220 Tulare Street, 6th Floor
21 Fresno, CA 93721

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

26 II. OBLIGATIONS OF THE COUNTY

27 A. The County shall reimburse the District up to, but not more than, \$300,000
28 in 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

1 District, the engineer selection process description and summary of the analysis, as prepared by
2 the District, to verify that a competitive process was conducted in accordance with U.S. Department
3 of Housing and Urban Development (HUD) procurement standards. If such conditions have been
4 met, the Department of Public Works and Planning, Community Development Division (Division)
5 shall specify in a letter to the District that these conditions have been met, and that the engineering
6 contract can be awarded.

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

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

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

27 F. The County shall conduct periodic inspections of the Project, as may be
28 required, in the determination of the County, that the intended use and group of beneficiaries of

1 the Project, as identified by the District in the application, have not changed. Upon completion of
2 the Project, but prior to the District's acceptance of the Project, the County shall conduct a final
3 inspection of the Project. If such conditions have been met, the Division shall specify in a letter to
4 the District that the conditions of this Section have been met. If such conditions have not been met,
5 the Project will not move forward unless the District receives an approval letter from the Division.

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

11 III. OBLIGATIONS OF THE DISTRICT

12 A. The District shall provide any and all sums of money in excess of \$300,000
13 which may be necessary to complete the Project. For the purposes of awarding the construction
14 of the Project within the Agreement amount, the bid documents shall include any proposed additive
15 or deduct alternatives.

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

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

22 D. In selecting an engineer to perform any engineering work required for the
23 Project, the District shall go through a competitive process in accordance with Chapter 4.10 of the
24 Ordinance Code of Fresno County, and HUD procurement standards. Prior to selection of the
25 engineer, the District shall prepare a written description of the process, perform a cost or price
26 analysis, and submit the process description and summary of the analysis to the Division for
27 review. The District shall obtain a letter from the Division specifying that the conditions of this
28 Section have been met.

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

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

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

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

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

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

28 K. The District shall require the contractor, and all subcontractors, to submit

1 labor compliance documentation, including Certified Payroll, in the manner specified by the
2 County's Labor Compliance Officer, including the use of electronic systems such as LCPtracker.

3 L. Prior to the construction start date, the District shall give written notice
4 thereof to the Division, including a copy of the executed contract between the District and the
5 Contractor and the Notice to Proceed.

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

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

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

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

25 P. The District shall comply with the mitigation measures, conditions and notes
26 identified in its Mitigated Negative Declaration, State Clearinghouse Number 2019049087, and in
27 Environmental Assessment No. CD21032 (the "Assessment"). A copy of the Assessment shall be
28 provided to the District.

Q. Upon completion of the Project, the District shall notify the Division, so a
representative of the Division may perform an inspection of the Project to confirm that it was

1 completed in accordance with the scope of work approved and authorized pursuant to this
2 executed Agreement.

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

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

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

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

27 U. The District must inform the County in writing of any program income
28 generated by the expenditure of CDBG funds. Any program income generated as a result of the

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

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

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

24 IV. CONFORMANCE WITH APPLICABLE LAWS AND REGULATIONS

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

28

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

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

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

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

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

1 (2) forms described herein to both the District and the County.

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

11 V. PAYMENT FOR THE PROJECT

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

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

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

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

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

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

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

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

28 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

1 for inspection by the County, the State of California, if applicable, the Comptroller General of the
2 United States, and HUD or any of their duly authorized representatives, at all reasonable times for
3 a period as specified in Section IV-G. The District shall certify accounts when required or
4 requested by the County.

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

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

24 Community Development Grants
25 County of Fresno
26 Department of Public Works and Planning
27 Community Development Division
28 2220 Tulare Street, 6th Floor
Fresno, CA 93721

1 VI. INDEMNIFICATION

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

10 VII. TIME OF PERFORMANCE

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

- 13 1. Complete Consultant Engineer Selection process – December 1,
14 2023
- 15 2. Complete Design Engineering and Submit to the County for Review
16 – February 13, 2024.
- 17 3. Complete County Review and Approval of Plans – May 7, 2024.
- 18 4. Begin Advertising for Bids – May 22, 2024.
- 19 5. Award Construction Contract – July 18, 2024.

20 B. The Project shall be completed, and NOC shall be filed with the Fresno
21 County Recorder's Office, no later than December 20, 2024.

22 C. The final POM Report, written summary of all work completed,
23 documentation demonstrating compliance with the Section 3 clause, and request for final payment
24 shall be submitted to the County no later than February 18, 2025.

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

1 the above schedule if, in the Director's judgment, any delay is beyond the control of the parties
2 involved.

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

4 VIII. BREACH OF AGREEMENT

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

14 IX. TERMINATION OF PROJECT

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

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

22 X. VENUE; GOVERNING LAW

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

27 XI. ENTIRE AGREEMENT

28 This Agreement constitutes the entire agreement between the District and the

1 County with respect to the subject matter hereof, and supersedes all previous negotiations,
2 proposals, commitments, writings, advertisements, publications, and understandings of any nature
3 whatsoever unless expressly included in this Agreement.

4 XII. NO THIRD-PARTY BENEFICIARIES

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

8 XIII. AUTHORIZED SIGNATURES

9 The District represents and warrants to the County that:

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

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

15 XIV. ELECTRONIC SIGNATURES

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

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

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

28

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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BIOLA COMMUNITY SERVICES DISTRICT

COUNTY OF FRESNO

By: _____
Jennifer Duarte, Board President

Sal Quintero, Chairman of the
Board of Supervisors of the
County of Fresno

Date: _____

Date: _____

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: N21032
ACTIVITY CODE: 7219

REMIT TO:
Biola Community Services District
Attention: Elaine Cervantes, General Manager
P.O. Box 57
Biola, CA 93606
Telephone: (559) 843-2657

JA:JN
G:\7205ComDev\Agendas-Agreements\2023\1128 Biola Groundwater Recharge 21032 AGT.docx
October 5, 2023

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

Project #: 21032

Project Name: Biola Groundwater Recharge

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)