

October 27, 2026

Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue
Bakersfield, CA 93301

REQUEST TO INCREASE APPROVED NOT TO EXCEED AMOUNT FROM \$665,273 TO \$998,343.88 FOR AGREEMENT NO. 484-2026 WITH CITY OF SHAFTER PROVIDING COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR RODRIGUEZ PARK MULTI-PURPOSE FIELD AND RETENTION BASIN IMPROVEMENTS PROJECT - CD PROJECT NOS. 18.22.2 AND 18.24.1 (Fiscal Impact: \$333,070.88; Federal Grant; Budgeted; Discretionary) (S.D.#4)

The County's Fiscal Year (FY) 2022-2023 Annual Action Plan for Community Development Programs includes CD Project No. 18.22.2 – City of Shafter Rodriguez Park Multi-purpose Field and Retention Basin Improvements, and the FY 2024-2025 Annual Action Plan for Community Development Programs includes CD Project No. 18.24.1 – City of Shafter Rodriguez Park Multi-purpose Field and Retention Basin Improvements. The project activities include the completion of improvements to the park facilities and other structural improvements to the City of Shafter Rodriguez Park Multi-Purpose Field and Retention Basin improvements as identified below.

On September 29, 2026, your Board approved an Agreement No. 484-2026. The agreement and related exhibits provide \$998,343.88 of CDBG funds for project implementation. However, the letter to your Board stated that the agreement amount was for \$665,273 of CDBG funds. The purpose of this letter is to revise the record regarding the agreement between the County and City of Shafter for the Rodriguez Park improvement project to be \$998,343.88. Other than the revision of the Board letter, no other changes to the associated documentation are necessary.

Project construction includes the design, construction, and installation of multi-purpose recreation field lighting, ADA accessibility ramps, and the expansion of an existing retention basin and installation of new underground pipelines used for stormwater collection and conveyance, and related park and facility improvements.

County Counsel has reviewed and approved the agreement as to form. CITY has executed the agreement for the project. This project was categorically excluded from further environmental review by the Planning and Natural Resources Department on March 19, 2025. A Request for Release of Funds was issued by your board for the project on October 21, 2025, and the Department of Housing and Urban Development (HUD) issued an Authority to Use Grant Funds (AUGF) on November 4, 2025.

Therefore, **IT IS RECOMMENDED** that your Board approve request to increase approved attached Agreement #484-2026 with the City of Shafter providing CDBG funds for the Rodriguez Park Multi-Purpose Field and Retention Basin improvements, not to exceed amount from \$665,273 to \$998,343.88.

Sincerely,

A handwritten signature in blue ink, appearing to read "Craig M. Murphy", is written over the word "Sincerely,".

CRAIG M MURPHY, Director
Kern County Planning and Natural Resources Department

CMM:JG:pg

Attachment

AGREEMENT
COMMUNITY DEVELOPMENT ACTIVITY CITY OF SHAFTER – RODRIGUEZ PARK
MULTI-PURPOSE FIELD AND RETENTION BASIN IMPROVEMENTS PROJECT
CD#18.22.2 & CD#18.24.1
(County – City of Shafter)

THIS AGREEMENT ("Agreement") is made and entered into as of SEP 29 2026, ("Execution Date") by and between the COUNTY OF KERN, a political subdivision of the State of California ("**COUNTY**"), and CITY OF SHAFTER within the County of Kern ("**CITY**").

RECITALS:

(a) The Congress of the United States has enacted Title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. 5301 et seq.), ("Act"), which provides for Community Development Block Grants for eligible activities;

(b) COUNTY has submitted the required documents to the Department of Housing and Urban Development ("HUD") for receipt of a Community Development Block Grant, Catalogue of Federal Domestic Assistance ("CFDA") Number 14.218, ("Grant") pursuant to the Act;

(c) COUNTY and CITY entered into a Community Development Block Grant Cooperative Agreements on July 14, 2020, and on July 18, 2023, wherein the parties thereto agreed to undertake activities eligible for Grant assistance within the corporate limits of CITY;

(d) COUNTY is empowered under the Act to administer Grant funds pursuant to the Act, and to enter into project/activity agreements with cities which have executed Community Development Block Grant Cooperative Agreements with COUNTY for Community Development projects/activities;

(e) CITY has requested the use of Grant funds for the design, construction, and installation of multi-purpose recreation field lighting, installation an ADA accessibility ramp including the expansion of an existing retention basin and installation of new underground pipelines used for storm water collection and conveyance, related park and facility improvements; and

(f) COUNTY desires to assist CITY by providing Grant funds for the design, construction, and installation of the related park and facility improvements within the City-owned Rodriguez Park.

AGREEMENT:

1. **Definitions**

a. Except to the extent modified or supplemented by the Grant Agreements between COUNTY and HUD dated October 11, 2022, and September 6, 2024, ("HUD Grants to

COUNTY") any term defined in Title I of the Act, or the HUD Community Development Block Grant regulations at 24 CFR Part 570 shall have the same meaning when used herein.

b. "Program" means COUNTY's Community Development Program, including the administration thereof, with respect to the terms of the HUD Grant to COUNTY.

c. "Project" means the design and construction of Park and Facility related improvements for Rodriguez Park, all as more fully described in **Schedule "A"**, attached hereto and incorporated herein by this reference as if set forth in full.

d. "Activity" means the design, construction, and installation of multi-purpose recreation field lighting, plus expansion of an existing retention basin and installation of new underground pipelines used for storm water collection and conveyance, related park and facility improvements and installation an ADA accessibility ramp, all as more fully described in **Schedule "A"**, attached hereto.

e. "Program Income" shall have, with respect to the Project/Activity undertaken pursuant to this Agreement, the same meaning as the definition found in the HUD Community Development Block Grant regulations at 24 CFR part 570.500(a)(1), as amended, at 24 CFR part 570.504, and as defined in HUD Training Bulletin CPD-90-1, dated April 1990, entitled "Program Income".

f. "Change in Use Restriction Period" means that period which starts upon filing of the Notice of Completion, in the case of construction work, or upon the close of escrow if Grant funding is solely for the acquisition of property, and ends five (5) years after HUD ceases to consider the CITY to be part of the COUNTY's entitlement jurisdiction.

CITY may cease to be part of COUNTY's entitlement jurisdiction by:

Expiration of, or CITY's failure to renew, the CITY/COUNTY Cooperative Agreement dated July 14, 2020 and _____; or

HUD's order to cancel the CITY/COUNTY Cooperative Agreement dated July 14, 2020 and _____; or

COUNTY ceasing to be a Grant entitlement jurisdiction; or

The federal government's termination of the Grant program.

g. "Expiration of Agreement" means the date of expiration of the Change in Use Restriction Period or the date of resolution of all monitoring findings as determined solely by COUNTY, whichever occurs last.

h. "Subgrantee" and "Subrecipient" as these terms are used in any of the attached exhibits, means CITY.

i. Whenever duties or obligations are performed jointly by CITY and COUNTY, CITY and COUNTY will be referred to as "PARTIES".

2. Maximum Amount Payable Under Agreement and Mode of Payment

a. COUNTY shall reimburse CITY, or its designee(s), through progress payments for Project/Activity costs incurred pursuant to this Agreement upon CITY making satisfactory progress, as determined solely by COUNTY, towards the completion of the Project/Activity detailed in the attached **Schedule "A"**; provided, however, that the total amount made available by COUNTY through this Agreement and payable to CITY, or its designee(s), shall not exceed NINE HUNDRED NINETY-EIGHT THOUSAND THREE HUNDRED FORTY THREE DOLLARS AND EIGHTY-EIGHT CENTS (\$998,343.88). Unless PARTIES otherwise expressly agree in writing, CITY agrees to accept sole financial responsibility for all costs related to this Project/Activity in excess of the NINE HUNDRED NINETY-EIGHT THOUSAND THREE HUNDRED FORTY THREE DOLLARS AND EIGHTY-EIGHT CENTS (\$998,343.88) made available by COUNTY pursuant to this Agreement.

b. COUNTY's duty to pay CITY is expressly contingent on COUNTY's receipt and continued use of Grant funds from the federal government allocated for this Project/Activity. In the event such funds are not received by COUNTY, or are reallocated by HUD after receipt and prior to completion of the Grant funded Project/Activity, this Agreement shall be immediately terminated or suspended as of the date the Grant funds are or become unavailable, and COUNTY shall have no further obligation to CITY under this Agreement until such time, if ever, that Grant funds are approved by HUD and allocated for the Project/Activity which is the subject of this Agreement. CITY agrees to indemnify and hold COUNTY harmless pursuant to the indemnification provisions of this Agreement from any costs, liabilities, losses, damages or expenses incurred as a result of termination of the Agreement due to unavailability of the Grant funds for this Project/Activity.

c. Payments shall be made to CITY, or its designee(s), upon CITY's submittal to COUNTY of a monthly-certified claim executed by a properly designated official of CITY indicating the percentage of the Project/Activity that has been completed. Said certified claims shall be itemized and properly documented to clearly show the items, tasks or services for which reimbursement is being claimed and the basis for cost computation whether by cost per hour, cost per weight, cost per task or other measurement as agreed by and between PARTIES, as more fully described in the attached **Schedule "A"**.

d. After receipt and approval by COUNTY of a monthly-certified claim for construction, COUNTY shall make a payment to CITY, or its designee(s), in the amount of ninety-five percent (95%) of COUNTY's pro rata portion of the project construction costs. The balance of the cumulative five percent (5%) retention from each claim shall be paid to CITY thirty-five (35) days after CITY files a Notice of Completion and after COUNTY has verified CITY's satisfactory compliance with Paragraphs 5 and 6 of this Agreement. The foregoing five percent (5%) retention is subject to the project construction contractor's right to substitute securities as explained in the document entitled "Withheld Contract Funds Certification", attached hereto as **Exhibit "A"** and incorporated herein by this reference as if set forth in full. The party entering into the construction contract with the prime contractor shall ensure compliance with the requirements set forth in the attached **Exhibit "A"**. CITY agrees that COUNTY is hereby empowered to make an independent determination of the percentage of the Project/Activity, which has been satisfactorily completed, and any such determination by COUNTY is conclusive. There will be no retention on monthly claims for architectural or design services.

3. CITY's Obligations

In addition to CITY's obligations as set forth in other sections of this Agreement, CITY agrees to perform the following specific duties:

a. CITY shall be responsible for implementation of this Project/Activity. Implementation shall include preparation of specification documents and plans if necessary; solicitation and hiring of contractors; construction engineering and inspection; contract administration; and HUD compliance monitoring services. CITY will provide COUNTY with all plans and specifications, including changes requested during construction, for COUNTY review and approval prior to their use.

b. CITY agrees that COUNTY may terminate, suspend and/or reduce the amount of Grant funding provided for in this Agreement if all work performed by CITY is not completed satisfactorily and within the budgetary limits and time schedule milestones provided for in this Agreement. The length of any suspension or the amount of the reduction of Grant funding shall be at COUNTY's sole option and will be principally based on compliance with Project/Activity specifications and plans, and on timely initiation of CITY's design and/or construction obligations under this Agreement. COUNTY agrees that delays in completion of the work subject to this Agreement may result for reasons outside the control of CITY, and agrees that COUNTY will extend the time for completion of the work for unavoidable delays for a reasonable period, as determined solely by COUNTY. However COUNTY shall not be obligated to pay or to otherwise reimburse CITY for work performed subject to this Agreement if Grant funding for the Project/Activity is revoked or suspended by HUD due in part or whole to the delay in the completion of the work contemplated by this Agreement.

c. CITY shall be responsible for complying with all applicable local, state, and federal regulations, including, but not limited to, the monitoring of construction for compliance with the federal labor standards contract requirements set forth in the "Preconstruction Checklist for Contractors" attached hereto as **Exhibit "B"** and incorporated herein by this reference as if set forth in full. If CITY hires a consultant to provide compliance monitoring required to ensure to the satisfaction of HUD and COUNTY, that all applicable regulations are met during the implementation of this Project/Activity, CITY shall monitor the consultant's compliance efforts and shall remain responsible to COUNTY for providing compliance monitoring records in a form acceptable to COUNTY. CITY agrees to become familiar with the applicable statutes, regulations and guidelines governing the Grant program. All applicable statutes, regulations, guidelines, codes, rules and executive orders referred to in this Agreement are as from time to time amended.

d. CITY or any contractors hired by CITY to perform work on the Project/Activity shall obtain any and all permits necessary to implement this Project/Activity from appropriate state, COUNTY and/or CITY agencies.

e. CITY (in collaboration with COUNTY) shall conduct a pre-bid and a preconstruction conference for the purposes stated within the document, "Material Covered at Preconstruction Conference" (**Exhibit "C"**), attached hereto and incorporated herein by this reference as if set forth in full.

f. CITY shall accept title to and be responsible for the maintenance and/or operation of the Shafter Rodriguez Park Multi-Purpose Field and Retention Basin Improvements, according to the terms of this Agreement and all applicable local, federal and state laws and regulations.

g. CITY shall be responsible for the control and safety of CITY officers, employees, agents, and invitees during the implementation of this Project/Activity. CITY shall take all actions necessary to ensure the safety of its employees and invitees during the implementation of the project and during the subsequent maintenance and/or operation of the Shafter Rodriguez Park Multi-Purpose Field and Retention Basin Improvements funded pursuant to this Agreement.

h. CITY shall cooperate fully with COUNTY in undertaking, monitoring and completing this Project/Activity.

i. CITY shall remain fully obligated under the provisions of this Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the Project/Activity to be completed under this Agreement.

j. Subsequent to bid opening, if the Director of COUNTY Planning and Natural Resources Department determines that funds budgeted herein are insufficient to satisfactorily accomplish or complete the work referenced in this Agreement, CITY will have thirty (30) calendar days from the date of such determination to obtain additional funding beyond COUNTY's maximum financial obligation or satisfactorily reduce the scope of the work, as provided for herein. If CITY does not obtain the necessary additional funding, or a reduction of scope is not successful in satisfactorily lowering overall Project/Activity costs, PARTIES hereby agree to mutually terminate this Agreement according to the requirements and standards of 2 CFR part 200.339, "Termination". In the event of termination, the work contemplated herein shall be abandoned and COUNTY shall incur no liability whatsoever to CITY for expenses incurred after a determination of noncompliant work under this Agreement or for costs related to any subsequent completion of the work contemplated by this Agreement.

k. CITY shall, as part of its contract administration responsibility, publish in a newspaper of general circulation, in trade journal publications and in minority-oriented publications, a notice soliciting small, and (as applicable) Section 3 business participation in this Grant funded Project/Activity. Prior to submitting a notice to a newspaper for publication, CITY shall obtain approval from COUNTY concerning the content of these required newspaper notices.

l. CITY shall be responsible, during the Change in Use Restriction Period, for the continued use (for the purpose described herein) of the City of Shafter Rodriguez Park Multi-Purpose Field and Retention Basin Improvements funded pursuant to this Agreement and shall comply with federal property management regulations and standards in accordance with 24 CFR part 570.505 "Use of real property" (applicable to expenditure of Grant funds in excess of TWENTY FIVE THOUSAND DOLLARS [\$25,000.00]); 24 CFR part 570.501, "Responsibility for grant administration"; and with 24 CFR part 570.503(b)(7), "Reversion of assets".

m. In the event that CITY cannot or fails to utilize the subject improvements for the purpose described herein throughout the Change in Use Restriction Period, CITY shall

immediately notify COUNTY regarding CITY's proposed new use of the subject improvements. COUNTY shall review the Grant eligibility and national objective compliance of the proposed new use of the subject improvements prior to CITY and COUNTY performing any of the following steps listed in this section. COUNTY will communicate in writing to CITY its determination in this matter. After COUNTY has made its determination, and if directed by COUNTY, CITY shall conduct a public hearing to provide affected citizens an opportunity to comment on CITY's proposed new use of the subject improvements. After these steps have been completed, COUNTY, at its option, may require that CITY comply with one of the following:

(1) Reimburse COUNTY in an amount equal to the Grant funds expended for this Project/Activity or its "proportionate share" of the current "Fair Market Value" (as defined by the California Code of Civil Procedure, Part 3, Title 7, Chapter 9, Article 4, Section 1263.320) of all real property and/or improvements for which Grant assistance was provided pursuant to this Agreement, whichever is more. "Proportionate share" is that amount equivalent to COUNTY's percentage contribution toward the total acquisition, design, construction or other cost(s) of the Project/Activity, as described in **Schedule "A"** of this Agreement, or

(2) Offer the improvements for which Grant funds were expended pursuant to this Agreement for sale at "Fair Market Value" and, subsequent to sale, reimburse COUNTY for its "proportionate share" of the sales price.

PARTIES shall first use good faith efforts in an attempt to agree on the "Fair Market Value". If, however, PARTIES are unable to agree, they shall, within thirty (30) days from and after written request given by either party to the other, select an arbitrator mutually acceptable to both PARTIES. The arbitrator shall render an advisory decision as to the "Fair Market Value" of the real property and/or improvements referenced in this Agreement. The arbitrator's decision in this matter shall be nonbinding and advisory only; provided, however, that PARTIES shall, in good faith, give serious consideration to the arbitrator's decision.

If PARTIES are unable to agree with a single arbitrator within the above-referenced thirty (30) days, then each shall, within twenty (20) additional working days, appoint one (1) arbitrator and the two (2) arbitrators shall select a third arbitrator within ten (10) additional working days after both are selected. Any decision as to the "Fair Market Value" determined and jointly agreed upon by any two (2) of the three (3) arbitrators shall be nonbinding and advisory only; provided, however, that PARTIES shall each give good faith and serious consideration to the arbitrators' decision.

All arbitrators shall be real estate appraisers who have at least ten (10) years experience in appraising real estate in the State of California and must be either a member of the American Institute of Real Estate Appraisers, holding an M.A.I. (Member of Appraisal Institute) designation, or a member of the Society of Real Estate Appraisers, holding an S.R.P.A. (Senior Real Property Appraiser), or an S.R.E.A. (Society of Real Estate Analysts) designation. PARTIES shall each pay half of the fees and necessary expenses for the arbitrators.

In no event shall the amount reimbursed to COUNTY be less than COUNTY's total contribution toward the Project/Activity. The Change in Use Restriction, as stated herein, shall be in effect for that period defined in Paragraph 1.f. of this Agreement.

4. COUNTY's Obligations

a. Any regulation enacted by COUNTY to facilitate the administration of the Grant will be made available to CITY by County's Board of Supervisors or its designee.

b. COUNTY shall make available to CITY, at its written request, copies of the terms of the Grant.

c. COUNTY shall cooperate fully with CITY in undertaking this Project/Activity and process CITY invoices for payment under this Agreement with due diligence.

d. COUNTY shall make available to CITY a copy of the notice which CITY may use in soliciting small and Section 3 business participation in the Grant funded work contemplated by this Agreement.

e. COUNTY shall review plans and specifications submitted by CITY and shall provide comments and approval or disapproval.

5. Laws and Regulations

a. CITY agrees to comply with the provisions of the Act, any amendments thereto, the federal regulations and guidelines now or hereafter enacted pursuant to the Act, terms of the Grant to COUNTY now or hereafter in effect, and the regulations now or hereafter enacted by COUNTY to facilitate its administration of the Grant in Kern County, or any other statute, regulation or guideline applicable to the Program. CITY shall become familiar with the applicable statutes, regulations and guidelines governing the Grant program, each of which is made a part hereof and incorporated herein by this reference as if set forth in full.

b. It is agreed that all provisions of State of California law applicable to public contracts (except to the extent California law may be waived and is waived by the PARTIES) are a part of this Agreement to the same extent as if set forth herein in full and shall be complied with by CITY under this Agreement and any related agreements.

6. Records and Administration

a. In the event CITY expends at least ONE MILLION DOLLARS (\$1,000,000) in federal financial assistance in any single fiscal year, from all sources combined, it shall arrange at its own expense for performance of a "Single Audit" of its entire operation by an independent auditor. Such audit shall comply with the requirements and standards of 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards", including appendices; Pub. L. 98-502, "Single Audit Act of 1984", as amended; 2 CFR part 200.425, "Audit Services"; and the OMB Uniform Guidance at 2 CFR part 200, subpart E and appendices V and VII, as applicable ; all of which are incorporated herein by this reference as if set forth in full.

The results of the audit must be submitted to COUNTY within thirty (30) days of completion. Acceptance of CITY's audit reports by COUNTY does not prohibit COUNTY from performing any additional audit work required to follow up on findings, as deemed necessary

by COUNTY, or as necessary for COUNTY to comply with any administrative or audit requirements imposed by the federal or state government.

b. As a condition of receiving federal financial assistance under this Agreement, CITY agrees to comply with 2 CFR part 200.337, "Access to Records". It is further agreed by CITY that any agreement between CITY and its independent auditor shall provide for access during normal business hours to the independent auditor's work papers by federal, state and COUNTY auditors, or their authorized agents, as may be deemed necessary to carry out their audit responsibilities. The audit agreement must also require CITY's independent auditor to retain for review purposes said audit work papers for a minimum of five (5) years from date of audit completion or until all related audit issues are resolved, whichever should occur later.

c. CITY agrees to maintain a financial management system which complies with 2 CFR part 200.302, "Financial Management", except paragraph (a). Particular reports and records that may be applicable to this Project/Activity and require compliance by CITY are described in and attached hereto as **Exhibit "D"**, and are incorporated herein by this reference as if set forth in full.

d. CITY agrees to comply with the methods and procedures for payment as outlined in 2 CFR part 200.305, "Federal Payment", except as modified by 24 CFR part 570.513, "Lump sum drawdown for financing of property rehabilitation activities".

e. CITY agrees to comply with the standards and requirements of 2 CFR part 200.314, "Supplies", and 2 CFR part 200.313, "Equipment", with the exception that in all cases in which the equipment is sold, the proceeds shall be considered to be Program Income and be immediately refundable to COUNTY.

f. CITY agrees to comply with the requirements and standards of 24 CFR part 200.318 through 200.323, "General Procurement Standards", and 2 CFR part 200.420, "Consideration for Selected Items of Cost".

g. CITY agrees to comply with the standards and requirements of 2 CFR part 200.214, "Suspension and Debarment", and to certify and/or require certification using the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Low Tiered Covered Transactions (attached hereto as **Exhibit "E"** and incorporated herein by this reference as if set forth in full) for all low tier agency, and/or contractors receiving Federal funds, as well as any subcontractors that the agency or contractor enters into contract with using Federal funds. Additionally, CITY agrees to comply with 2 CFR part 200.329, "Monitoring and Reporting Program Performance", except paragraphs (b) through (d) and paragraph (f) thereof. CITY further agrees that COUNTY has the right to monitor and supervise the administration and/or implementation of the Project/Activity to be completed pursuant to this Agreement to help ensure compliance with the requirements of the Act as now or hereinafter amended, the federal regulations as now or hereafter promulgated pursuant to the Act, or guidelines developed by the federal government for administering and/or implementing the Project/Activity, or any other statute, rule, regulation or guideline applicable to the administration and/or implementation of the Grant program.

h. CITY agrees to comply with the standards and requirements of 2 CFR part 200.339, "Remedies for noncompliance" and 2 CFR part 200.340, "Termination". CITY also

agrees that COUNTY can, by unilateral action, terminate this Agreement, with cause, by giving ten (10) days prior written notice to CITY. In the event COUNTY determines that an intentionally false or fraudulent certified claim has or is being filed, COUNTY, in its sole discretion, may immediately terminate this Agreement and/or CITY shall reimburse COUNTY for any and all funds found to be improperly paid, as well as those reasonable costs associated with the investigation and recovery of the contested claims and/or amounts.

i. CITY shall be accountable to COUNTY for any and all Grant funds expended by CITY or any officer, employee, agent or representative thereof, whether or not such officer, employee, agent or representative thereof was acting within the scope of his employment. CITY shall repay COUNTY the full amount of any improperly expended Grant funds upon demand and shall comply with the requirements of 2 CFR part 200.344, "Closeout". COUNTY may retain any funds of CITY in COUNTY's possession as an offset against the debt resulting from such improper expenditure.

j. CITY agrees to comply with the standards and requirements of 2 CFR part 200.345, "Post-Closeout Adjustments and Continuing Responsibilities," and 2 CFR part 200.346, "Collection of Amounts Due".

k. CITY shall return to COUNTY, within thirty (30) days at the end of the program year in June, all Program Income which is directly generated by Grant funded activities during the Change in Use Restriction Period.

l. At COUNTY's sole option, COUNTY may either terminate this Agreement upon three (3) days written notice to CITY or withhold funds from the Project/Activity if CITY is not complying with provisions of the Act, federal regulations thereunder, terms of the Grant from the federal government to COUNTY, the regulations of COUNTY to facilitate the administration of the Grant, the terms of this Agreement, or any other statute or regulation applicable to the Program or administration thereof as determined solely by COUNTY. Should COUNTY become subject to any claims, causes of action, costs or sanctions due to any failure by CITY or CITY's agent to comply with all applicable federal, state, and local laws and regulations, CITY hereby agrees to be solely liable for any such expenses, costs, damages and sanctions and shall fully reimburse, hold harmless, and indemnify COUNTY for any payments made or funding lost by COUNTY and COUNTY's expenses related thereto, including COUNTY's costs.

7. Use Restriction Monitoring

Beginning approximately one year after the date of the filing of the Notice of Completion and resolution of all monitoring findings, CITY shall provide COUNTY a Monitoring Letter regarding the physical condition and usage of the improvements constructed with Grant funds pursuant to this Agreement for the purpose of determining compliance with the change in use restriction during the period defined in Paragraph 1.f. herein. The purpose of the Monitoring Letter is to ensure that the Grant funded improvements continue to be properly maintained and utilized for their original eligible use or for another Grant use approved by COUNTY in accordance with applicable regulations found at 24 CFR part 570.201.

The Monitoring Letter shall consist of a written description of the physical condition of the improvements; any maintenance performed on the improvements during the past twelve (12) months; and any proposed changes in the future use of the improvements. Said

Monitoring Letter shall be signed by the City Manager/Administrator or his/her designee. CITY shall submit the Monitoring Letter to COUNTY by no later than June 30 of each year. COUNTY may elect to conduct a visual inspection of the improvements and shall notify CITY at least two (2) weeks in advance of each monitoring visit.

A determination regarding continued compliance and/or any related findings, conditions or sanctions shall be made and communicated in writing to CITY by COUNTY following review of the annual monitoring letter or each monitoring visit.

8. Use of Debarred, Suspended or Ineligible Contractors or Subrecipients

Assistance provided under this Agreement shall not be used directly or indirectly to employ, award contracts, or otherwise engage the services of, or fund any contract or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 2 CFR part 180.

9. Political Activity

CITY agrees that no Grant funds shall be expended to finance any political activity in contravention of the Hatch Act of 1939, as amended, 5 U.S.C. 15 et seq.

10. Prohibited Use of Federal Funds for Lobbying

CITY certifies, to the best of its knowledge and belief, that no federally appropriated funds have been paid or will be paid, by or on behalf of CITY, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds, other than federally appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, CITY shall complete and submit, in accordance with its instructions, Standard Form-LLL, "Disclosure of Lobbying Activities", attached hereto as **Exhibit "F"** and incorporated herein as if set forth in full.

CITY shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under any federal grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

11. Use of Grant Funds for Religious Purpose

CITY agrees that no Grant funds shall be expended for the design, construction, operation, or maintenance of any facility used for inherently religious activities.

No person performing any service or providing any goods designated under this Contract shall participate in any political or religious activity on County time or in any manner involving the use of County property or expenditure of public funds nor conveying the implication of County endorsement or support for a candidate for local, state, or federal office.

Notwithstanding the foregoing, nothing in this Contract shall be construed to unlawfully limit an individual's Constitutional rights. Accordingly, the limitations contained in this section are for the sole purpose of preventing proselytizing and politicking while engaged in the performance of services under this Contract.

12. Prohibited Interest of Officials and Employees

No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same. No member, officer or employee of CITY, or its designees or agents, no member of the Board of Supervisors of COUNTY or any other public official who exercises any functions or responsibilities with respect to the Program during his tenure, or for one (1) year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this Agreement. CITY shall incorporate or cause to be incorporated, in all contracts or subcontracts, relating in any manner to this Agreement, a provision prohibiting such interest.

The PARTIES to this Agreement have read and are aware of the provisions of section 1090 et seq. and section 87100 et seq. of the Government Code relating to conflict of interest of public officers and employees. All PARTIES hereto agree that they are unaware of any financial or economic interest of any public officer or employee of COUNTY relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, COUNTY may immediately terminate this Agreement by giving written notice thereof. CITY shall comply with the requirements of Government Code, section 87100 et seq., during the term of this Agreement.

13. Federal Labor Standards and State Labor Code Provisions

Except with respect to the rehabilitation of residential property designed for residential use for less than eight families, CITY and all contractors engaged under contracts for the construction, alteration, and/or repair of any building or work financed in whole or in part with federal funds provided under this Agreement, shall comply with HUD requirements pertaining to such contracts and the applicable requirements of the regulations of the U. S. Department of Labor under 29 CFR parts 3 and 5, governing the payment of wages and the ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under such regulations are imposed by state or local law, nothing hereunder is intended to relieve CITY of its obligation to require payment of higher rates. Further, if the requirements of HUD and of the State of California are different in regards to matters including, but not limited to, hours of labor, payroll records, apprentices, workers' compensation, and suits to recover penalties and forfeitures, CITY shall comply with the more restrictive provision.

CITY shall cause or require to be inserted in full, in all such contracts subject to such regulations, the "Federal Labor Standards Provisions" clause, or any modification thereof, set out in **Exhibit "G"** attached hereto and incorporated herein by this reference as if set out in

full. CITY shall comply with the procedures set out in HUD Handbook 1344.1, "Federal Labor Standards Compliance in Housing and Community Development Programs", as amended, which is incorporated herein by this reference as if set forth in full.

CITY shall also cause or require to be inserted in full, in all contracts subject to State Labor Code regulations, the "State of California Labor Code Requirements" clause, or any modification thereof, set out in **Exhibit "H"** attached hereto and incorporated herein by this reference as if set out in full.

No awards of contracts covered under this section of this Agreement shall be made to any contractor who is ineligible under the provisions of any applicable regulations of the U. S. Department of Labor and/or the State of California Department of Industrial Relations – Division of Labor Standards Enforcement to receive an award of such contract.

14. Nondiscrimination Requirements

CITY is subject to all applicable requirements of the following Acts, promulgations and regulations with respect thereto:

a. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and the regulations issued pursuant thereto (24 CFR part 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives federal financial assistance and will immediately take any measures necessary to effectuate this assurance. Where the federal financial assistance is to provide or is in the form of personal property or real property interest therein or structures thereon, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, via the instrument effecting any disposition by the applicant or transferee, in the case of a subsequent transfer, of such real property, structures or improvements thereon, or interests therein, to require a covenant running with the land assuring nondiscrimination for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the applicant retains ownership or possession of the property, whichever is longer. Under this assurance the United States shall have the right to seek its judicial enforcement. CITY is required to take all measures necessary to effectuate this Title in the manner set forth in Section 1.5 of the above-mentioned regulation, a copy of which is attached hereto as **Exhibit "I"** and incorporated herein by this reference as if set forth in full.

b. Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284) as amended, administering all programs and activities relating to housing and community development in a manner to affirmatively further fair housing; and requiring action to affirmatively further fair housing in the sale, lease or rental of housing, the financing of housing, and the provision of brokerage services within COUNTY's jurisdiction.

c. Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR part 570.602), which provide that no person in the United States shall on the grounds of race, color, national origin, religion, or sex, be excluded

from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Title I funds.

d. Executive Order 11063, as amended, and the regulations issued pursuant thereto (24 CFR part 107) which require that all action necessary and appropriate be taken to prevent discrimination because of race, color, religion (creed), sex, or national origin in the sale, rental, leasing or other disposition of residential property and related facilities or in the use or occupancy thereof where such property or facilities are owned or operated by the federal government, or provided with federal assistance by HUD, and in the lending practices with respect to residential property and related facilities of lending institutions insofar as such practices relate to loans insured, guaranteed or purchased by HUD.

15. Equal Employment Opportunity

During the implementation of this Project/Activity and during subsequent operation of any facility assisted pursuant to this Agreement, CITY shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. CITY shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and the selection for training, including apprenticeship. CITY shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by COUNTY and/or HUD setting forth the provisions of this nondiscrimination clause. CITY shall state, through such nondiscrimination clause, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

Government contracts. Except as otherwise provided for of Executive Order 14173, dated January 21, 2025, as amended, and in attendant Code of Federal Regulation provisions, CITY shall require to be included in each U. S. Government contract entered into by CITY and set out in **Exhibit "J"**, attached hereto and incorporated herein by this reference as if set forth in full.

CITY agrees that it shall assist and cooperate actively with COUNTY, HUD, and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor; that it will furnish COUNTY, HUD and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it will otherwise assist COUNTY and HUD in the discharge of their primary responsibilities for securing compliance.

CITY agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 14173 of January 21, 2025, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity as may be imposed upon contractors and subcontractors by HUD or the Secretary of Labor pursuant to the Executive Order. In addition, CITY agrees that if it fails or refuses to comply with these undertakings, HUD may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this Grant (contract, loan, insurance,

guarantee); refrain from extending any further assistance to CITY under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such; and refer the case to the Department of Justice for appropriate legal proceedings.

16. "Section 3" Compliance in the Provision of Training, Employment, and Business Opportunities for Lower-Income Persons

CITY is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u), as amended, the HUD regulations issued pursuant thereto at 24 CFR part 75, and any applicable rules and orders of HUD issued thereunder. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted Projects/Activities covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low income persons, particularly persons who are recipients of HUD assistance for housing.

CITY shall cause or require to be inserted in full in all contracts and subcontracts for work financed, in whole or in part, with assistance provided under this Agreement, the Section 3 clause entitled, "Economic Opportunities for Low- and Very Low-Income Persons", and set forth in **Exhibit "K"**, attached hereto and incorporated herein by this reference as if set forth in full.

CITY itself, during its implementation of this Project/Activity shall, to the greatest extent feasible, seek out and attempt to award contracts to Section 3 business concerns for the business opportunities generated on this federally funded Project/Activity.

CITY shall provide such copies of 24 CFR part 75 as may be necessary for the information of the parties to contracts required to contain the Section 3 clause.

17. Small Business Concerns

CITY is subject to the requirements of the Small Business Act (15 USC 631 et seq.), as amended, the HUD applicable regulations issued pursuant thereto at 48 CFR, part 19, and any applicable rules and orders of HUD issued thereunder requiring aid, counseling, assistance, and protection, insofar as possible, with, for, or of the interests of small business concerns in order to preserve free competitive enterprise; and placement with small business concerns of a fair proportion of the total federally funded purchases and contracts for property and services.

CITY shall implement the specific small business policies herein below stated in order to further applicable requirements of the Small Business Act:

a. Small business concerns shall be afforded an equal opportunity to compete for prime contracts and subcontracts. The "Utilization of Small Business Concerns" clause (48 CFR part 52.219-8) set forth in **Exhibit "L"**, attached hereto and incorporated herein by this reference as if set forth in full, shall be included by CITY in all contracts in connection with this Project/Activity in amounts which may exceed the simplified acquisition threshold, currently set at TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) except (i) contracts which, including all subcontracts thereunder, are to be performed entirely outside the United States, and (ii) contracts for services which are personal in nature. The "Small Business

Subcontracting Plan" clause (48 CFR part 52.219-9) set forth in **Exhibit "M"**, attached hereto and incorporated herein by this reference as if set forth in full, shall be included by CITY in all contracts in connection with this Project/Activity which may exceed SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) and which, in the opinion of COUNTY, offer substantial subcontracting possibilities.

b. Bidders' mailing lists shall include established and potential qualified small business concerns.

c. Invitations for bids or requests for proposals shall be sent to all firms on the appropriate mailing list except that where use of less than a complete list is appropriate a pro rata number of small business concerns shall be solicited.

d. Proposed procurements and contract awards shall be publicized in accordance with these policies.

e. Procurement of property and services shall be divided into reasonably small lots (not less than economic production runs) in order to permit bidding on quantities less than the total requirements.

f. The maximum amount of time practical shall be allowed for preparation and submission of bids and proposals.

g. Delivery schedules shall be established on a realistic basis which will encourage small business participation to the extent consistent with the actual requirements of the Small Business Act.

h. Applicable specifications, plans, and drawings either shall be furnished with invitations for bids and requests for proposals or, when not so furnished, information as to locations where they may be obtained or examined shall be furnished.

i. In the event of equal low bids, awards shall be in accordance with 48 CFR part 14.408-6, "Equal Low Bids".

j. Subcontracting to enroll small business concerns shall be encouraged.

k. Placement of small purchases (amounts under TWENTY FIVE THOUSAND DOLLARS [\$25,000]) with small business concerns shall be encouraged.

l. Small business concerns seeking Federal contracts, but found to lack qualifications as prime contractors, should be referred to COUNTY and the Small Business Administration for assistance as may be appropriate.

m. Offers from small business concerns otherwise qualified to perform specific federal contracts but ineligible under Walsh-Healey Public Contract Act, 41 USC 35 et seq., shall be referred to COUNTY and Small Business Administration for possible certification of eligibility to receive and perform the contract.

n. To the extent practicable, work to be performed which exceeds the maximum amount of any contract for which a surety may be guaranteed against loss shall be placed so that more than one small business concern may perform the work.

o. A small business concern otherwise qualified to receive and perform specific federal contracts but determined to be non-responsible may be certified to be competent by the Small Business Administration under the provisions of the Small Business Act.

To facilitate the participation of small businesses in CDBG funded contracts, PLNR has developed a Small Business Affirmative Action Plan designed to carry out the procurement standards found at 2 CFR 200.321. A copy of the Plan is available upon request from COUNTY Planning and Natural Resources Department.

CITY agrees that the "Small Business Participation Requirements" clause set forth in **Exhibit "N"**, attached hereto and incorporated herein by this reference as if set forth in full, shall be included in all contracts in connection with this Project/Activity for goods, services, and construction involving CDBG funding of more than the simplified acquisition threshold fixed at 41 U.S.C. 403 (11) (currently set at \$250,000).

CITY further agrees that the "Small Business Subcontracting Program" clause set forth in **Exhibit "O"**, attached hereto and incorporated herein by this reference as if set forth in full, shall be included in all contracts in connection with this Project/Activity which may exceed SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) and should be included in all contracts which may not exceed SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000) but which, in the opinion of COUNTY and HUD, offer substantial subcontracting possibilities.

18. Nondiscrimination on the Basis of Age

CITY is subject to the Age Discrimination Act of 1975, as amended, (Title III, Pub. L. 94-135) and attendant regulations at 24 CFR part 146, which prohibits, except as otherwise provided, that any person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. CITY is also subject to the Age Discrimination in Employment Act of 1967 addressing age discrimination in employment for persons between the ages of forty (40) and seventy (70) years.

19. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

COUNTY and CITY will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as required under 24 CFR part 570.606(b) and Department of Transportation implementing regulations at 49 CFR part 24; the requirements in 24 CFR part 570.606(c) governing the residential anti-displacement and relocation assistance plan under Section 104(d) of the Housing and Community Development Act of 1974 (Act) and displacement under Section 104(k) of the Act, and HUD implementing regulations at 24 CFR Part 42; and COUNTY may, at COUNTY's option, comply with the relocation requirements of 24 CFR part 570.606(d) governing optional relocation assistance under Section 105(a)(11) of the Act.

20. Rehabilitation Act of 1973 and Nondiscrimination Based on Handicap

CITY is subject to the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended (29 USC 793 and 29 USC 794, respectively) and attendant regulation at 24 CFR 570.602, which provide that no otherwise qualified individual with handicaps shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to, discrimination under any program or activity receiving federal financial assistance. CITY shall cause or require to be inserted in full, in all such contracts subject to such regulations, the clauses, or any modifications thereof, set out in 48 CFR part 52.222-36, attached hereto as **Exhibit "P"** and incorporated herein by this reference as if set forth in full.

21. Americans with Disabilities Act of 1990

Grant subgrantees and subrecipients agree to abide by the requirements of the Americans with Disabilities Act of 1990 (ADA), Pub. L. 101-336, and any regulations issued pursuant thereto, which prohibits, at Title I thereof, discrimination by any employer, employment agency, or labor organization against any qualified individual with a disability in regard to any term, condition, or privilege of employment; makes applicable, at Title II thereof, the prohibition against discrimination on the basis of disability to all programs, activities and services provided or made available by state and local agencies or instrumentalities or agencies thereof, or by public entities that provide public transportation; prohibits, at Title III thereof, discrimination against disabled persons by privately operated public accommodations and in public transportation services provided by private entities; and which, at Titles IV and V thereof, makes further provisions against discrimination against disabled persons.

22. Architectural Barriers Act of 1968

CITY is subject to the requirements of the Architectural Barriers Act of 1968, 42 USC 4151 - 4157 (Uniform Federal Accessibility Standards (UFAS)), and the regulations issued pursuant thereto (41 CFR part 102-76.25(b)), which require, except as otherwise provided, that all new construction and major renovations, provide full access to and use of Federally-controlled facilities for physically impaired persons as required by the UFAS or the ADA Accessibility Guidelines, whichever is more stringent. Minor renovations in existing buildings shall meet minimum UFAS requirements. A more detailed explanation of these standards can be found in 36 CFR parts 1190 and 1191. CITY shall be responsible for compliance with the requirements of the Act during the design and construction and for the life of any improvements to be constructed as part of the Project/Activity, as defined herein. COUNTY shall have the right, at all reasonable times, to review construction plans and conduct inspections of the Project/Activity to determine if CITY is complying with these specifications.

23. Equal Opportunity for Veterans

CITY shall comply with 48 CFR part 22.13 et seq., and shall take affirmative action to employ, advance in employment and otherwise treat qualified protected veterans without discrimination based on their qualified protected status. In all contracts or subcontracts of FIFTY THOUSAND DOLLARS (\$50,000) or more relating to this Agreement, CITY shall include or cause to be included the "Equal Opportunity for Veterans" and the "Employment Reports on

Veterans" clauses set out in **Exhibit "Q"**, attached hereto and incorporated herein by this reference as if set forth in full.

24. Environmental Considerations

In order to assure that the policies of the National Environmental Policy Act of 1969 ("NEPA"), as amended, and the California Environmental Quality Act of 1970 ("CEQA"), as amended, are most effectively implemented, COUNTY shall comply with HUD Environmental Review Procedures (24 CFR part 58) leading to environmental clearance for particular projects/activities, and the CEQA review procedures (Title 14, Section 15000 et seq. of the California Code of Regulations) in connection with this Project/Activity. In order to assure that the policies of NEPA and CEQA are carried out, CITY shall be responsible for complying with all conditions/mitigation measures specified during the environmental review process, all as more fully described in **Schedule "A"** attached hereto.

25. Lead Based Paint

CITY is subject to the prohibition against the use of lead-based paint. Section 401(b) of the Lead-Based Paint Poisoning Prevention Act directs the prohibition of the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance. Such prohibitions are contained in 24 CFR part 35.135, and are applicable to residential structures constructed or rehabilitated with the assistance of Grant funds.

26. Historic Preservation

CITY must take into account the effects of a project on any prehistoric or historic district, site, building, structure, or object listed in, or eligible for inclusion in, the National Register of Historic Places maintained by the National Park Service of the U. S. Department of the Interior. The National Register "Criteria for Evaluation" (36 CFR part 60.4) was established by the Secretary of the Interior; CITY shall make every effort to avoid, minimize, or mitigate any adverse effects on historic properties. Activities affecting such properties must comply with Section 106 of the National Historic Preservation Act of 1966, as amended, (16 USC 470f), Pub. L. 89-665; Executive Order 11593, Protection and Enhancement of the Cultural Environment (May 13, 1971); the Advisory Council on Historic Preservation (26 CFR part 800); and Section 3 of the Reservoir Salvage Act of 1960, (Pub. L. 86-523), as amended by the Archaeological and Historic Preservation Act of 1974, (Pub. L. 93-291), (16 USC 469a-1), and their attendant implementing regulations.

27. Compliance with Clean Air and Water Acts

CITY is subject to the requirements of the Clean Air Act, as amended, 42 USC 7401 et seq., including the regulations of the Environmental Protection Agency at 40 CFR parts 6, 51, and 93; the Federal Water Pollution Control Act, as amended by the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1251 et seq., and later enactments; and Executive Order 11738 dated September 10, 1973. CITY, also, agrees to comply with Executive Order 12088, relating to the prevention, control, and abatement of water pollution.

In no event shall any amount of assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c)(1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

28. Flood Disaster Protection

CITY is subject to the requirements of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) which prohibits Federal financial assistance for acquisition or construction purposes, as defined under Section 3(a) of said act, for Projects/Activities within special hazard areas previously identified, ("Identified Area"), by the Director of the Federal Emergency Management Agency ("FEMA"), unless the Identified Area is in a community participating in the national flood insurance program and subject to the mandatory purchase of flood insurance requirements of said act. The PARTIES to this Agreement agree that the Project described in **Schedule "A"**, attached hereto, is not located in an Identified Area.

Any contract for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement shall contain, if such land is located in an area identified by the Director of FEMA as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, as amended, 42 USC 4001 et seq., provisions obligating the transferee and its successors or assigns to obtain and maintain, during the ownership of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of the Flood Disaster Protection Act of 1973. Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under this Agreement.

In its compliance with the Flood Disaster Protection requirements of this Agreement, COUNTY hereby agrees to comply with the provisions of Executive Order 11988, relating to evaluation of flood hazards.

29. Build America, Buy America Act (BABA)

In accordance with the Build America, Buy America Act (BABA), any project with a total cost of more than \$250,000 and utilizing CDBG funds for Infrastructure Projects, as defined under 2 CFR 184.4(d), shall incorporate within the plans and specifications BABA requirements for all iron, steel, manufactured products, or construction materials, as applicable under HUD guidelines, that is utilized in the execution of the construction work performed. Any exception to this requirement, must either obtain a waiver or fall within the de minimis thresholds provided under HUD guidelines.

30. Indemnification

CITY agrees to indemnify, defend, and hold harmless COUNTY and its agents, board members, elected and appointed officials and officers, employees, volunteers, and authorized representatives from any and all losses, liabilities, charges, damages, claims, liens, causes of action, awards, judgments, costs, and expenses (including, but not limited to, expert fees, fees of County Counsel, costs of staff time, and investigation costs) of whatever kind or nature, which arise out of or are in any way connected with any act or omission of CITY or CITY's officers, agents, employees, independent contractors, sub-contractors of any tier, or authorized

representatives. Without limiting the generality of the foregoing, the same shall include bodily and personal injury or death to any person or persons; damage to any property, regardless of where located, including the property of COUNTY; and any workers' compensation claim or suit arising from or connected with any services performed pursuant to this Agreement on behalf of CITY by any person or entity.

CITY acknowledges that CITY, and all contractors hired by CITY to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act ("IRCA"). CITY is and shall remain in compliance with the IRCA and shall ensure that only contractors hired by CITY to perform services under this Agreement are in compliance with the IRCA. In addition, CITY agrees to indemnify, defend, and hold harmless the County, its agents, board members, elected and appointed officials and officers, employees, volunteers, and authorized representatives, from any liability, damages or causes of action arising out of or relating to any claims that CITY's employees or the employees of any contractor hired by CITY, are not authorized to work in the United States for CITY or its contractor and/or any other claims based upon alleged IRCA violations committed by CITY or its contractor(s).

31. Insurance

CITY in order to protect COUNTY and its board members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of CITY's actions in connection with the performance of CITY's obligations, as required in this Agreement, shall secure and maintain insurance as described below. CITY shall not perform any work under this Agreement until CITY has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the COUNTY's authorized insurance representative. Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, CITY shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon. The CITY shall promptly deliver to the COUNTY's authorized insurance representative, a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to insurance representative prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. CITY shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by CITY or COUNTY as an additional insured.

a. Workers' Compensation and Employers' Liability Insurance Requirement - In the event CITY has employees who may perform any services pursuant to this Agreement, CITY shall submit written proof that CITY is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code.

CITY shall require any contractor or sub-contractor to provide workers' compensation for all of the contractor's or sub-contractor's employees, unless the contractor's or sub-contractor's employees are covered by the insurance afforded by CITY. If any class of employees engaged in work or services performed under this Agreement is not covered by

Labor Code section 3700, CITY shall provide and/or require each contractor or sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered.

CITY shall also maintain employers' liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

b. Liability Insurance Requirements:

1. CITY shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:

- (a) Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the County), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of CITY's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. CITY shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.
- (b) Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering all owned, leased, hired, and non-owned vehicles used in the performance of services pursuant to this Agreement with combined limits for Bodily Injury and Property Damage liability of at least one million dollars (\$1,000,000) each occurrence.

(2) The Commercial General Liability and Automobile liability Insurance required herein shall include an endorsement naming the COUNTY and COUNTY's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 11 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.

(3) Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of Insurance or other documentation provided to COUNTY and must be approved by the COUNTY Risk Manager.

(4) If any of the insurance coverages required under this Agreement is written on a claims-made basis, CITY at its option, shall either (i) maintain said coverage for at least three (3) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than three

(3) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

c. Cancellation of Insurance — The above stated insurance coverages required to be maintained by CITY shall be maintained until the completion of all of CITY's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by the CITY must be endorsed to provide that the coverage shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. Such notice shall be by certified mail, return receipt requested. This notice requirement does not waive the insurance requirements stated herein. CITY shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

d. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum of a "A-; VII" rating. Any exception to these requirements must be approved by the COUNTY Risk Manager.

e. If CITY is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, CITY shall provide coverage equivalent to the insurance coverages and endorsements required above. COUNTY will not accept such coverage unless COUNTY determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by CITY is equivalent to the above-required coverages.

f. All insurance afforded by CITY pursuant to this Agreement shall be primary to and not contributing to all insurance or self-insurance maintained by COUNTY. An endorsement shall be provided on all policies, except professional liability/errors and omissions, which shall waive any right of recovery (waiver of subrogation) against the COUNTY.

g. Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve CITY for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude COUNTY from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

h. Failure by CITY to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by CITY. COUNTY, at its sole option, may terminate this Agreement and obtain damages from CITY resulting from said breach. Alternatively, COUNTY may purchase such required insurance coverage, and without further notice to CITY, COUNTY shall deduct from sums due to CITY any premiums and associated costs advanced or paid by COUNTY for such insurance. If the balance of monies obligated to CITY pursuant to this Agreement is insufficient to reimburse COUNTY for the premiums and any associated costs, CITY agrees to reimburse COUNTY for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by COUNTY to take this alternative action shall not relieve CITY of its obligation to obtain and maintain the insurance coverages required by this Agreement.

i. Subcontractor Requirements

- (1) If CITY hires a consultant to provide professional services, such as architectural or engineering services under this Agreement, CITY shall require its consultant to provide Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, the performance of all required services under this Agreement, with coverage equal to the policy limits which shall not be less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
- (2) During the construction of the Activity, CITY shall require that all contractors hired by CITY to perform work on the Activity Premises maintain the following insurance coverages at all times during the performance of said work:
 - (a) Commercial General Liability Insurance including Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Contractor's performance of work. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.
 - (b) Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering all owned, leased, hired, and non-owned vehicles, with combined limits for Bodily Injury and Property Damage liability of at least one million dollars (\$1,000,000) each occurrence.

32. Captions and Interpretation

Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement.

The Recitals listed at the beginning of this Agreement are hereby incorporated into this Agreement.

No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the parties.

33. Successors and Assigns of COUNTY

This Agreement shall be binding upon and inure to the benefit of the successors to or assigns of COUNTY.

34. Liens and Encumbrances

Without the prior consent of COUNTY, CITY shall not transfer, pledge, hypothecate, or encumber the Project/Activity property during the Change in Use Restriction Period.

35. Assignment and Subletting

CITY shall not assign any right, title or interest it may acquire by reason of this Agreement nor sublet any Project/Activity premises except upon first obtaining the written consent of COUNTY.

36. Concurrent Remedy

No right or remedy herein conferred on or reserved to COUNTY is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time.

37. Non Waiver

No covenant or condition of this Agreement to be performed by CITY can be waived except by the written consent of COUNTY. Forbearance or indulgence by COUNTY in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by CITY. A waiver of one covenant or condition by COUNTY does not grant or imply a waiver of any other covenant or condition to be performed by CITY. COUNTY shall be entitled to invoke any remedy available to COUNTY under this Agreement or by law or in equity despite said forbearance or indulgence.

38. Incorporation of Prior Agreements and Amendments

This Agreement, including all attachments hereto and any reference to pertinent federal or State laws and regulations, contains the entire Agreement between the PARTIES, relating to the services, rights, obligations and covenants contained herein and assumed by the PARTIES respectively. No inducements, representations or promises have been made, other than those recited in this Agreement. No oral promise, modification, change or inducement shall be effective or given any force or effect. This Agreement may be modified in writing only, signed by the PARTIES in interest at the time of modification.

39. Severability

Should any part, term, portion or provision of this Agreement be finally decided to be in conflict with any law of the United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the PARTIES intended to enter into in the first instance.

40. Signatory Authority

Each individual executing this Agreement on behalf of each party represents and warrants that he/she is duly authorized to execute and deliver this Agreement on behalf of such

party and that this Agreement is binding on such party in accordance with its terms. CITY shall, prior to Agreement execution by COUNTY's Board of Supervisors, deliver to COUNTY a copy of the resolution or minute order of CITY's governing body authorizing the execution of this Agreement.

41. Procedure to Modify and Limitation of Term of Agreement

a. Except as otherwise provided herein, the terms of this Agreement may only be modified by the written consent of the PARTIES hereto.

b. The expiration of this Agreement shall be determined as provided in Paragraph 1.g. of this Agreement.

42. Execution

This Agreement is effective upon the date indicated herein above. It is the product of negotiation and all PARTIES are equally responsible for authorship of this Agreement. Section 1654 of the California Civil Code shall not apply to the interpretation of this Agreement.

42. Notices

Notices shall be sufficiently given hereunder if personally served upon the Clerk of the Board of Supervisors of the COUNTY or the Clerk of the CITY, or if sent by United States mail, postage prepaid, as follows:

directed to COUNTY, addressed to:

Planning and Natural Resources Department
Clerk of the Board of Supervisors
County Administrative Center
1115 Truxtun Avenue, Fifth Floor
Bakersfield, California 93301

or directed to CITY, addressed to:

City Clerk
City of Shafter
336 Pacific Avenue
Shafter, CA 93263

43. Construed According to California Law

The provisions of this Agreement shall be construed in accordance with the laws of the State of California.

44. Venue

This Agreement has been entered into and is to be performed in the County of Kern, California. Accordingly, the PARTIES agree that the venue of any action relating to this Agreement shall be in the County of Kern.

45. Opinions and Determinations

Where the terms of this Agreement provide for action to be based upon the opinion, judgment, approval, review, discretion, option, or determination of either COUNTY or CITY, such terms are not intended to be and shall not be construed as permitting such opinion, judgment, approval, review, discretion, option, or determination to be arbitrary, capricious, or unreasonable.

46. No Third Party Beneficiaries

It is expressly understood and agreed that the enforcement of these terms and conditions and all rights of action relating to such enforcement, shall be strictly reserved to COUNTY and CITY. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of COUNTY and CITY that any such person or entity, other than COUNTY and CITY, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

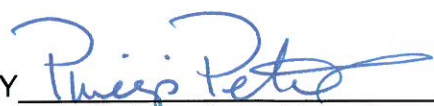
IN WITNESS THEREOF, the parties have caused this Agreement to be executed by their respective officers and agents hereunto duly authorized as of the day and year first above written.

/

APPROVED AS TO CONTENT:
Planning and Natural Resources Department

COUNTY OF KERN

BY 
Craig M. Murphy, Director

BY 
Chairman, Board of Supervisors
PHILLIP PETERS

Printed Name

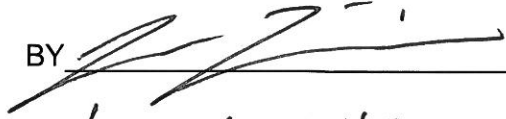
"COUNTY"

APPROVED AS TO FORM
Office of County Counsel
Kern County
By: 
Andrew Hamilton

APPROVED AS TO FORM:
Office of County Counsel

CITY OF SHAFTER

BY _____
Joshua H. Rudnick, Deputy

BY _____

Lane Lippincott
Printed Name

City Manager
Insert Title
"CITY"

I:\CEDD\AFC\PROJECTS\18-Shafter\22.1 City of Shafter Rodriguez Park\22. and 24.1 City of Shafter Draft Agreement_Revised1.docx

Title

Schedule A: CD Project Nos. 18.22.2 & 18.24.1- Rodriguez Park Multi-Purpose Field and Retention Basin Improvements

Project Purpose

The project will provide needed recreation and park facility improvements to Rodriguez Park, a neighborhood park, in the City of Shafter. The improvements will provide park facility upgrades to existing lighting for park activities and increase public safety and accessibility improvements. Expansion of the existing retention basin within the park has been proposed to accommodate excess storm water runoff that collects on the surrounding roadways and neighborhood during extreme weather events.

Project Description

The project location is at 200 West Los Angeles Avenue in Shafter, CA. CD Project No. 18.22.1 consists of the design, construction, and installation of multi-purpose recreation field lighting, plus expansion of an existing retention basin and installation of new underground pipelines used for storm water collection and conveyance, and related park and facility improvements. CD Project No. 18.24.1 provides additional supplemental financial assistance for the project described as CD Project No. 18.22.2 and installation an ADA accessibility ramp. Project meets eligibility requirements under 570.201(c) and a National Objective under 570.208 (a)(1); HUD Use Code 03F-Park, Recreational Facilities.

After completion of the Environmental Review, which includes a Finding of No Significant Impact, Request for Release of Funds completed by the County and an issuance of the Authority to Use Grant Funds by the Department of Housing and Urban Development, the City of Shafter determined based that additional supplemental funding was needed to complete the project. The estimate of costs below includes CDBG funding from City's cancelled library project.

Project Cost Estimate

The total amount of GRANT funds committed by the County of Kern ("County" or "COUNTY") to the Project is NINE HUNDRED NINETY-EIGHT THOUSAND THREE HUNDRED FORTY THREE DOLLARS AND EIGHTY-EIGHT CENTS (\$998,343.88). Individual line items and payment responsibilities within the following detailed cost estimate for GRANT funds may be modified under authority of COUNTY's Planning and Natural Resources ("PLNR") Director provided that the total amount of GRANT funds committed does not exceed NINE HUNDRED NINETY-EIGHT THOUSAND THREE HUNDRED FORTY THREE DOLLARS AND EIGHTY-EIGHT CENTS (\$998,343.88). In addition, the City of Shafter (CITY) shall be responsible for all other costs related to this Project in excess of the GRANT amount and pursuant to the Agreement.

Construction	COUNTY GRANT Funds CD Activity # 18.22.2 & 18.24.1	CITY & Other Funds	TOTAL
Storm Drain	\$130,000	\$0	\$130,000
Catch Basin	\$60,000	\$0	\$60,000
Sump Outlet	\$20,000	\$0	\$20,000
Storm Drain Manhole	\$20,000	\$0	\$20,000
Drainage Basin Expansion	\$60,000	\$0	\$60,000
Drainage Basin Block Wall Addition	\$100,000	\$0	\$100,000
ADA Ramp Upgrades	\$30,000	\$0	\$30,000

Construction	COUNTY GRANT Funds CD Activity # 18.22.2 & 18.24.1	CITY & Other Funds	TOTAL
Multi-Use Field Lighting	\$200,000	\$0	\$200,000
Construction Cost	\$620,000	\$0	\$620,000
Design Work	\$50,000	\$0	\$50,000
Advertisement	\$1,000	\$0	\$1,000
Construction Inspection	\$0	\$0	\$0
Contingency	\$165,343.88	\$0	\$165,343.88
Escalation	\$100,000	\$0	\$100,000
Total Project Costs	\$998,343.88	\$0	\$998,343.88

Beneficiaries

Project activities will benefit a service area of 17,695 persons, 54.25% of whom are low to moderate income (2023 HUD ACS LMISD). 03F-Park, Recreational Facilities; Section 570.208(a)(1)(i); 570.201(c) – Public Facilities and Improvements

Anticipated Implementation Schedule

It is agreed between the COUNTY and the CITY that time is of the essence in the implementation of the Activity described in this Agreement. CITY shall implement the Project in an expeditious manner and otherwise conform to the following time schedule:

Cumulative time is from the date of execution by the Board of Supervisors:

- a. Agreement is executed.....Week 1
- b. CITY submits Insurance Certification forms to COUNTY Week 2
- c. CITY submits Bid Packages for County to review.....Week 4
- d. COUNTY completes review of Bid Packages.....Week 5
- e. CITY completes Bid Advertising.....Week 7
- f. CITY completes Bid Opening.....Week 11
- g. COUNTY reviews Bids.....Week 12
- h. CITY awards Contract(s).....Week 14
- i. Begin Construction.....Week 17
- j. Complete Construction.....Week 23
- k. COUNTY receives Notice of Completion.....Week 26

Environmental Clearance: A statutory worksheet was completed for the project and the project activities require an Environmental Assessment under HUD regulations at 24 CFR Part 58 for compliance with National Environmental Policy Act (NEPA) requirements.

National Environmental Policy Act (NEPA) The Environmental Review Record (ERR) for CD Project 18.22.2 and 18.24.1 is maintained in the Planning and Natural Resources Department – Community Development Division, it contains:

1. 24 CFR Part 58 Environmental Review;
2. Early Consultation and comments received during the consultation process;
3. FONSI completed and approved by the Board of Supervisors on October 21, 2025;

4. Request for Release of Funds was approved by the Board of Supervisors on October 21, 2025;
5. A Mitigation Monitoring Program was adopted by Board of Supervisors on October 21, 2025; and,
6. Authority to Use Grant Funds (AUGF) issued by Department of Housing and Urban Development (HUD) on November 18, 2025.

Project Mitigation and Conditions of Approval - The following are conditions of the project and are to be incorporated in the Project Plans and Specifications as required pursuant to the completed "Worksheet A". The DISTRICT shall notify the COUNTY if any subsequent project modifications are proposed that may affect the environmental clearance. The Project Mitigation Monitoring Program shall be used for compliance with the following measures, as amended.

1. Preconstruction Survey: No more than 14 to 30 days prior to the commencement of operations or any ground-disturbing activities, a qualified biologist shall conduct a preconstruction biological clearance survey to assess the presence of protected species.
 - Survey results shall be submitted to the Kern County Planning and Natural Resources Department – Community Development Division, and as appropriate, to the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service.
 - Exclusion zones shall be established and maintained until construction is complete unless agencies authorize removal or relocation of special-status species, following their guidelines.
2. Informational Meeting: Prior to construction, a qualified biologist shall conduct a meeting with construction personnel outlining avoidance and protection measures, including the USFWS Standardized Recommendations for the San Joaquin Kit Fox.
3. During Construction: All USFWS and State-recommended mitigation measures for endangered species shall be adhered to, including exclusion zones and monitoring protocols.
4. Migratory Birds: If migratory bird nests are observed, work shall cease in the immediate vicinity, and a qualified biologist shall be consulted to ensure MBTA compliance.
5. If cultural resources are uncovered, all work shall stop in the area of discovery. A qualified cultural resource specialist shall be contacted immediately to assess and recommend mitigation. *A list of qualified consultants can be found at www.chrisinfo.org.* Work in the area of the find shall resume only after clearance is obtained from the specialist and any necessary consultations with the State Historic Preservation Office (SHPO) are completed.
6. In order to minimize disturbance to nearby residences, project construction setup and/or work hours shall be limited to hours between 7:00 a.m. and 6:00 p.m. during weekdays and 7:30 and 5:30 p.m. during weekends.
7. Due to the expansion of the drainage basin near existing residences, a mosquito vector control plan shall be developed for the drainage basin that can be implemented to prevent the vegetation overgrowth and reduce nuisances from mosquitoes.

California Environmental Quality Act (CEQA)

The COUNTY completed a CEQA exemption for the project on September 8, 2025. All documentation pertaining to the CEQA clearance of the Project has been entered into the ERR file.