

RECORDING REQUESTED BY AND
WHEN RECORDED, RETURN TO:

City of Davis
Public Works Department
1717 Fifth Street
Davis, CA 95616

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX UNDER SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES UNDER SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

**FIRST AMENDMENT TO
AGREEMENT FOR WATER SERVICE AND SYSTEM MAINTENANCE AND
TRANSFER OF WATER CUSTOMERS TO CITY SERVICE**

This First Amendment to Agreement for Water Service and System Maintenance and Transfer of Water Customers to City Service (this "First Amendment") is made and entered into and dated as of April 9, 2024, by and between the County of Yolo, a political subdivision of the State of California (the "County"), and the City of Davis, a municipal corporation (the "City").

RECITALS

A. The County and the City are parties to an agreement entitled "Agreement for Water Service and System Maintenance and Transfer of Water Customers to City Service," which was made on entered into on December 11, 2018, County Agreement No. 18-261 (the "Original Consolidation Agreement"), for the purposes of, among other things, facilitating the provision of domestic, irrigation, and fire suppression water service to the residential parcels within the North Davis Meadows County Service Area ("NDM") of the unincorporated area of the County through the design and construction by the County of a new water distribution system to connect NDM to the City's water system (the "Project").

B. Financing for the Project has been provided by the California State Water Resources Control Board (the "SWRCB") under an agreement entitled "Construction Installment Sale Agreement, Project No. 5700788-003C, North Davis Meadows Water Consolidation Project, Agreement No. D2202047," signed by the SWRCB on January 10, 2024 (the "Installment Sale Agreement"), between the SWRCB and the County.

C. The Installment Sale Agreement includes certain covenants and representations of or relating to the City, and accordingly, the County and the City have agreed to incorporate those provisions of the Installment Sale Agreement into the Original Consolidation Agreement pursuant to this First Amendment in order to allow the County to comply with the Installment Sale Agreement.

D. The City and County further desire to amend the Original Consolidation Agreement to delete the additional requirement in the last sentence of Section B.1.b. of the Original Consolidation Agreement, which required individual property owner agreements before the City would commence Water Services (as defined in the Original Consolidation Agreement) to the individual properties within NDM.

NOW, THEREFORE, in consideration of the mutual agreements and covenants herein contained and for other valuable consideration, the County and the City do hereby agree as follows:

Section 1. Amendment of Original Consolidation Agreement. The Original Consolidation Agreement is hereby amended as follows:

A. Section B. The following section B.5. is hereby added to the Original Consolidation Agreement:

5. The City hereby consents to all of the representations of or relating to the City, and agrees to all of the covenants of or relating to the City, contained in the agreement entitled "Construction Installment Sale Agreement, Project No. 5700788-003C, North Davis Meadows Water Consolidation Project, Agreement No. D2202047," between the California State Water Resources Control Board (the "SWRCB") and the County. The Installment Sale Agreement is hereby incorporated by reference into this First Amendment as if fully set forth herein. The SWRCB is hereby made a third-party beneficiary to the Original Consolidation Agreement, as amended by this First Amendment.

B. Section B.1.b. Section B.1.b of the Original Consolidation Agreement is hereby amended and restated as follows:

b. Provide City Water Service to the Property upon the latter of (1) completion of County's construction of all required infrastructure and City's approval and acceptance of same; and (2) the expansion of the City's service area to include the Property (hereinafter "Commencement of Water Service"); and (3) approval of any permits required from Federal, State, or local agencies for the City to provide Water Service to the Property.

C. Section E.6. Section E.6 of the Original Consolidation Agreement is hereby amended and restated as follows:

6. Indemnity. The County shall indemnify, defend (with counsel reasonably satisfactory to City) and hold harmless the City from all claims (including any and all actions, causes of action, claims, attorneys' fees, costs, demands, lawsuits, liens and liabilities of any kind and nature) that arise out of the County's design or installation of the new water distribution system to connect NDM (including individual properties) to the City's water system, the County's obligations under the Installment Sale Agreement, or the County's implementation of this Agreement, except if such claim is a result of City's (including its officers, employees, agents and volunteers) negligent act or omission or willful misconduct, then City shall indemnify and defend County (with counsel reasonably satisfactory to County) from any such claim. Each party agrees to fully cooperate with the other in any attempt to resolve or defend a challenge related to the Project, the design or installation of the new water distribution system to connect NDM to the City's water system, or the implementation of this Agreement. Each party (the "Indemnifying Party") agrees to indemnify, defend (with counsel selected by the Indemnifying Party and

reasonably acceptable to the other party) and hold harmless the other party (the "Indemnified Party") from all other claims (as defined above) arising in connection with this Agreement.

D. Exhibit B. Exhibit B to the Original Consolidation Agreement (sample Agreement for Water Services) is deleted and no longer required for the City to commence Water Services (as defined in the Original Consolidation Agreement) to NDM properties. The City shall instead commence Water Service as provided in Section B.1.b. as amended and restated in this First Amendment.

Section 2. Authority. This First Amendment is being executed pursuant to and in accordance with Section E.3. of the Original Consolidation Agreement.

Section 3. Original Consolidation Agreement Continues in Effect. Except as amended and supplemented by this First Amendment, the Original Consolidation Agreement shall remain in full force and effect.

Section 4. Effective Date. This First Amendment shall become effective upon the date hereof.

[Signatures on Following Page.]

IN WITNESS WHEREOF, the County and the City have caused this Agreement to be executed as of the date first above written.

COUNTY OF YOLO

CITY OF DAVIS

By _____
Lucas Frerichs, Chair
Yolo County Board of Supervisors


By _____
Mike Webb, City Manager

Attest:
Julie Dachtler, Senior Deputy Clerk,
Yolo County Board of Supervisors

Senior Deputy (Seal)

Approved as to form:
Philip J. Pogledich

Approved as to form:



Kimberly Hood,
Chief Assistant County Counsel

Inder Khalsa,
City Attorney

[NOTARY ACKNOWLEDGMENTS]