RESOLUTION - ACTION REQUESTED 2020-538

MEETING: September 1, 2020

TO: The Board of Supervisors

FROM: Keith Williams, Treasurer/Tax Collector

RE: MID/Mariposa Escrow Agreement

RECOMMENDATION AND JUSTIFICATION:
Approve an Escrow Agreement Between Merced Irrigation District (MID) and the County of Mariposa for the deposit of Funds from the Settlement Agreement Dated April 1, 2017; and Approve U.S. Bank as the Escrow Agent for the Deposit of Funds; and Authorize the Board of Supervisors Chair to Sign the Agreement.

The District and the County have entered into a Settlement Agreement, dated as of April 1, 2017 ("the Settlement Agreement"). Section E of the Settlement Agreement provides in relevant part that the District shall annually pay six percent of its Annual Gross Generation Revenues, as defined in the Settlement Agreement, from its previous fiscal year, not to exceed $18 million in total, into the Water Diversion Works Project Construction Joint Escrow Account ("Escrow Account"), an interest-bearing escrow account held in the names of both Transaction Parties.

The Transaction Parties desire to implement Section E of the Settlement Agreement with the escrow arrangement set forth in this Agreement.

BACKGROUND AND HISTORY OF BOARD ACTIONS:
The Board entered into the Settlement Agreement in 2017.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
A negative action would result in the funds remaining with MID.

FINANCIAL IMPACT:
None

ATTACHMENTS:
Escrow Agreement - Execution Ready(PDF)

RESULT: ADOPTED [UNANIMOUS]
MOVER: Rosemarie Smallcombe, District I Supervisor
SECONDER: Miles Menetrey, District V Supervisor
AYES: Rosemarie Smallcombe, Merlin Jones, Marshall Long, Miles Menetrey
EXCUSED: Kevin Cann
ESCROW AGREEMENT

This Escrow Agreement ("Agreement") is effective September 1, 2020 among U.S. Bank National Association ("Escrow Agent"), Merced Irrigation District, an irrigation district organized under the California Irrigation District Law, Section 20500 et seq. of the California Water Code ("District"), and the County of Mariposa, a political subdivision of the State of California, existing and operating under Section 23000 et seq. of the California Government Code ("County"). The District and the County are referred to herein individually as a "Transaction Party" and collectively as the "Transaction Parties."

RECITALS

A. The District and the County have entered into a Settlement Agreement, dated as of April 1, 2017 ("the Settlement Agreement").

B. Section E of the Settlement Agreement provides in relevant part that the District shall annually pay six percent of its Annual Gross Generation Revenues, as defined in the Settlement Agreement, from its previous fiscal year, not to exceed $18 million in total, into the Water Diversion Works Project Construction Joint Escrow Account ("Escrow Account"), an interest-bearing escrow account held in the names of both Transaction Parties.

C. The Transaction Parties desire to implement Section E of the Settlement Agreement with the escrow arrangement set forth in this Agreement.

ARTICLE 1 – DEPOSITS

1.1 Initial Deposit. The District shall make an initial deposit (the "Initial Deposit") with the Escrow Agent to be deposited under this Agreement concurrently with the final execution of this Agreement. The Initial Deposit and subsequent annual deposits to be made by the District, together with earnings thereon, are hereinafter referenced as the "Escrowed Funds."

1.2 Acceptance of Deposit. The Escrow Agent shall accept the Initial Deposit upon presentation of the Initial Deposit and this Agreement executed by the District and the County, and shall maintain possession of the Escrowed Funds until such time as the Escrowed Funds or a portion thereof shall be jointly directed to be released by the Transaction Parties, which direction the Transaction Parties agree shall be given in accordance with Section E(3), E(4) or E(5) of the Settlement Agreement. The Escrow Agent shall accept any subsequent deposits on the same basis as the Initial Deposit. The Escrow Agent has no duty to either the District or the County to verify, audit, or otherwise ascertain the accuracy of any calculation of amounts due to be paid into the Escrow Account.

1.3 District’s Representations. The District represents as follows:

a. The District lawfully possesses all the funds due to be deposited with Escrow Agent at the time of deposit;
b. With respect to all the Escrowed Funds, the District has the right and authority to grant to Escrow Agent the rights as provided in this Agreement; and

c. The Escrowed Funds are not subject to any lien or other encumbrance that could prohibit, limit, or alter Escrow Agent’s obligations under this Agreement.

ARTICLE 2 – DUTIES OF ESCROW AGENT

2.1 Custody of Escrowed Funds. Escrow Agent shall be permitted, and is hereby authorized to deposit, transfer, hold and invest all funds received under this Agreement, including principal and interest, in the U.S. Bank National Association Money Market Deposit Account described in Exhibit A during the period of this escrow. Escrow Agent may invest the Escrowed Funds in alternative investments in accordance with written instructions as may from time to time be provided to Escrow Agent and signed by duly authorized representatives of both the District and the County. Any interest received by the Escrow Agent with respect to the Escrowed Funds, including reinvested interest, shall become part of the Escrowed Funds, and shall be disbursed along with the principal amount in accordance with Section 3 of this Agreement.

The District and the County warrant that all investments made under this Agreement shall conform to the State Of California Government Code §53600 et seq. The District and the County recognize and agree that Escrow Agent will not provide supervision, recommendations or advice relating to either the investment of Escrowed Funds or the purchase or disposition of any investment and the Escrow Agent will not have any liability for any loss in an investment made pursuant to the terms of this Agreement. The Escrow Agent has no responsibility whatsoever to determine the market or other value of any investment and makes no representation or warranty as to the accuracy of any such valuations. To the extent applicable regulations grant rights to receive brokerage confirmations for certain security transactions, the District and the County waive receipt of such confirmations. All investments will be made in the name of the Escrow Agent. The Escrow Agent may, without notice to the District and the County, sell or liquidate any of the foregoing investments at any time for any disbursement of Escrowed Funds permitted or required hereunder and will not be liable for any loss, cost or penalty resulting from any sale or liquidation of any such investment. All investment earnings will become part of the Escrowed Funds and investment losses will be charged against the Escrowed Funds.

Such investments will be made as soon as possible following the availability of such funds to the Escrow Agent for investment, taking into consideration the regulations and requirements (including cut-off times) of the Federal Reserve wire system, the investment provider and the Escrow Agent, and compliance with standard operating procedures of such parties.

The Transaction Parties agree that, for tax reporting purposes, all interest or other taxable income earned from the investment of the Escrowed Funds in any tax year shall be taxable to the County.
Prior to closing, the County and the District shall provide the Escrow Agent with certified tax identification numbers by furnishing appropriate forms W-9 or W-8 and other forms and documents that the Escrow Agent may reasonably request. The County and the District understand that if such tax reporting documentation is not so certified to the Escrow Agent, the Escrow Agent may be required by the Internal Revenue Code of 1986, as amended, to withhold a portion of any interest or other income earned on the investment of monies or other property held by the Escrow Agent pursuant to this Agreement. Except as otherwise agreed by the Escrow Agent in writing, the Escrow Agent has no tax reporting or withholding obligation except to the Internal Revenue Service with respect to Form 1099-B reporting on payments of gross proceeds under Internal Revenue Code Section 6045 and Form 1099 and Form 1042-S reporting with respect to investment income earned on the Escrowed Funds, if any.

2.2 Tax Allocation. To the extent that the Escrow Agent becomes liable for the payment of any taxes in respect of income derived from the investment of funds held or payments made hereunder, the Escrow Agent shall satisfy such liability to the extent possible from the Escrowed Funds. The County and the District agree to indemnify and hold the Escrow Agent harmless from and against any taxes, additions for late payment, interest, penalties and other expenses that may be assessed against the Escrow Agent on or with respect to any payment or other activities under this Agreement except to the extent any such tax, addition for late payment, interest, penalties and other expenses are determined by a court of competent jurisdiction to have been directly caused solely by the Escrow Agent’s gross negligence.

2.3 Statements of Account. The Escrow Agent will issue to the District and the County a statement profiling the account history at least quarterly. The Escrow Agent may provide copies of the account history upon request. Failure to inform the Escrow Agent in writing of any error or omission in any such account statement within 90 days after receipt will conclusively be deemed confirmation and approval by the District and the County of such account statement.

2.4 Audits. During the term of this Agreement, the District and the County shall have the right to inspect the written records of the Escrow Agent pertaining to this Agreement. The Escrow Agent shall permit any inspection to be conducted at the premises of the Escrow Agent during normal business hours and following reasonable prior notice.

ARTICLE 3 – RELEASE OF ESCROWED FUNDS

3.1 Release of Escrowed Funds to the County. Upon delivery to the Escrow Agent of written instructions signed by both the District and the County, the Escrow Agent will release the Escrowed Funds, or such portion thereof as may be identified in such instructions. However, the Escrow Agent is entitled to receive any fees and expense reimbursements due the Escrow Agent before making the release. This Agreement will terminate upon the release of all the Escrowed Funds held by the Escrow Agent.
3.2 Release of Escrowed Funds or Remaining Balance to Each Transaction Party. Upon the delivery to the Escrow Agent of instructions executed by both Transaction Parties, which the Transaction Parties warrant shall be in accordance with Section E(5) of the Settlement Agreement, the Escrow Agent shall release the Escrowed Funds to each Transaction Party as so instructed. However, the Escrow Agent is entitled to receive any fees and expense reimbursements due the Escrow Agent before making the release. This Agreement will terminate upon the release of all the Escrowed Funds held by the Escrow Agent.

ARTICLE 4 – TERM AND TERMINATION

4.1 Term of Agreement. This Agreement shall terminate upon (a) the Escrow Agent’s receipt of written instructions from the District and the County, notifying the Escrow Agent that this Agreement is terminated in accordance with its terms; (b) release of the balance of the Escrowed Funds in accordance with this Agreement; or (c) failure of the Transaction Parties or either of them to cure a default for non-payment as to which notice has been duly given by the Escrow Agent in accordance with Section 4.2.

4.2 Termination for Nonpayment. In the event of the nonpayment of fees or expense reimbursements owed to the Escrow Agent, the Escrow Agent shall provide written notice of delinquency to the Transaction Parties. The District or the County shall have the right to make the payment to the Escrow Agent to cure the default. If the past due payment is not received in full by the Escrow Agent within one month of the date of such notice, then the Escrow Agent shall have the right to terminate this Agreement at any time thereafter by sending written notice of termination to the Transaction Parties and releasing the balance of the Escrowed Funds to the County and the District in equal shares. The Escrow Agent shall have no obligation to take any action under this Agreement so long as any payment due to the Escrow Agent remains unpaid.

4.3 Disposition of Escrowed Funds upon Termination. Except as otherwise provided in Section 4, upon the termination of this Agreement, the Escrow Agent shall return or otherwise deliver any Escrowed Funds remaining in escrow with the Escrow Agent in accordance with the Transaction Parties’ joint instructions.

4.5 Survival of Terms Following Termination. Upon termination of this Agreement, the following provisions of this Agreement shall survive:

a. The District’s Representations (Section 1.3);

b. The obligation of the County and the District to pay the Escrow Agent any fees, expenses and indemnity due;

c. The provisions of Article 6; and

d. Any provisions in this Agreement which specifically state they survive the termination or expiration of this Agreement.
ARTICLE 5 – ESCROW AGENT’S FEES

5.1 Fee Schedule. The District and the County jointly and severally agree to pay the Escrow Agent fees and expenses applicable to the services provided as set forth on Exhibit B. The Escrow Agent shall provide invoices to the District and the County detailing all fees charged. The Escrow Agent shall notify the District and the County of the Escrow Agent’s fees at least 60 days prior to any increase in fees. If the Escrow Agent renders any material service not contemplated in this Agreement, or there is any assignment of interest in the subject matter of this Agreement, or any material modification hereof, or if any material controversy arises hereunder, or the Escrow Agent is made a party to any litigation pertaining to this Agreement, or the subject matter hereof, then the Escrow Agent shall be reasonably compensated for such extraordinary services and reimbursed from the Escrowed Funds for all costs and expenses, including reasonable attorney’s fees, occasioned by any delay, controversy, litigation or event. The Escrow Agent shall have, and is hereby granted, a first priority lien upon the Escrowed Funds with respect to its fees, advances, expenses and indemnification rights, superior to the interests of any other persons or entities and is hereby granted the right to sell, set off and deduct any unpaid fees, non-reimbursed advances and expenses and unsatisfied indemnification rights from the Escrowed Funds.

5.2 Payment Terms. The Escrow Agent shall not be required to perform any service unless the payment for such service and any outstanding balances owed to the Escrow Agent are paid in full. Fees are due upon receipt of the Initial Deposit. If invoiced fees are not paid, the Escrow Agent may terminate this Agreement in accordance with Section 4.2.

ARTICLE 6 – LIABILITY AND DISPUTES

6.1 Right to Rely on Instructions. The Escrow Agent may act in reliance upon any written instruction, written instrument, or signature believed by Escrow Agent in good faith to be genuine. The Escrow Agent will not be required to inquire into the truth or evaluate the merit of any statement or representation contained in any notice or document. The Escrow Agent shall not be responsible for failure to act due to causes beyond the control of the Escrow Agent. The Escrow Agent shall not be liable for any act or omission while acting in good faith except to the extent that a court of competent jurisdiction determines, which determination is not subject to appeal, that the Escrow Agent’s gross negligence or willful misconduct in connection with its material breach of this Agreement was the sole cause of any loss to the District or the County. In no event will Escrow Agent be liable for (i) acting in accordance with or conclusively relying upon any instruction, notice, demand, certificate or document believed by the Escrow Agent to have been created by or on behalf of the District or the County or (ii) incidental, indirect, special, consequential or punitive damages or penalties of any kind (including, but not limited to lost profits), even if the Escrow Agent has been advised of the likelihood of such damages or penalty and regardless of the form of action. The Escrow Agent shall have the right to consult with counsel whenever any question arises.
concerning this Agreement and shall incur no liability for any delay reasonably required to obtain such advice of counsel.

6.2 Indemnification. The District and the County jointly and severally agree to indemnify, defend and hold harmless the Escrow Agent from all claims (whether asserted by any party hereto or any other person or entity), actions, damages, arbitration fees and expenses, costs, attorney's fees and other liabilities ("Liabilities") incurred by the Escrow Agent relating in any way to this escrow arrangement, including those incurred in connection with the enforcement of this Section 6.2, except to the extent such Liabilities are determined by a court of competent jurisdiction to have been directly caused by the gross negligence or willful misconduct of the Escrow Agent. The Escrow Agent may consult counsel of its choice with respect to any question arising under this Agreement, and the Escrow Agent shall not be liable and shall be fully indemnified for any action taken or omitted in good faith upon advice of such counsel.

6.3 Dispute Resolution. Any dispute relating to or arising from this Agreement shall be resolved by arbitration under the Commercial Rules of the American Arbitration Association. Three arbitrators shall be selected. The District and the County shall each select one arbitrator and the two chosen arbitrators shall select the third arbitrator, or failing agreement on the selection of the third arbitrator, the American Arbitration Association shall select the third arbitrator. However, if the Escrow Agent is a party to the arbitration, the Escrow Agent shall select the third arbitrator and shall have no obligation to pay and shall be fully indemnified for any Liabilities associated with such arbitration. Unless otherwise agreed by the County and the District, arbitration will take place in Sacramento, California. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrators. Service of a petition to confirm the arbitration award may be made by first class mail or by commercial overnight delivery service, to the attorney for any Transaction Party or, if unrepresented, to any Transaction Party as provided in Section 7.2. If any disagreement or dispute arises between the County and the District concerning the meaning or validity of any provision hereunder or concerning any other matter relating to this Agreement, the Escrow Agent (a) shall be under no obligation to act, except under process or order of court, or until it has been adequately indemnified to its full satisfaction, and shall sustain no liability for its failure to act pending such process, court order or indemnification, and (b) may, in its sole and absolute discretion, interplead the Escrowed Funds and name the County and the District, in such interpleader action. Upon filing the interpleader action, the Escrow Agent shall be relieved of all liability as to the Escrowed Funds and shall be entitled to recover from the County and the District jointly and severally its reasonable attorneys' fees and other costs incurred in commencing and maintaining such action. In no event shall the institution of such interpleader action impair the rights of the Escrow Agent described elsewhere in this Agreement.

6.4 Controlling Law. This Agreement is to be governed and construed in accordance with the laws of the State of California, without regard to its conflict of law provisions.

6.5 Notice of Requested Order. If any Transaction Party intends to obtain an order from the arbitrator or any court of competent jurisdiction that may direct the Escrow Agent to take,
or refrain from taking any action, that Transaction Party shall:

a. Give the Escrow Agent at least five business days’ prior notice of the hearing; and

b. Include in any such order that, as a precondition to the Escrow Agent’s obligation, the Escrow Agent be paid by the Transaction Parties, jointly and severally, in full for any past due fees and expense reimbursement be paid.

ARTICLE 7 – GENERAL PROVISIONS

7.1 Entire Agreement. This Agreement, which includes the Exhibits described herein, embodies the entire understanding between the parties with respect to its subject matter and supersedes all previous communications, representations or understandings, either oral or written. The Escrow Agent is not a party to the Settlement Agreement between the District and the County and has no knowledge of any of the terms or provisions of any such Settlement Agreement. The Escrow Agent’s only obligations to the District or the County are as expressly set forth in this Agreement and no obligations shall be implied. The Escrow Agent has no fiduciary or discretionary duties of any kind. The Escrow Agent’s permissive rights will not be construed as duties. Nothing in this Agreement, express or implied, is intended to or will confer upon any person other than the signatory parties hereto any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement. No amendment or modification of this Agreement shall be valid or binding unless signed by all parties hereto.

7.2 Notices. All notices, invoices, payments, deposits and other documents and communications (each, a “Notice”) shall be given to the parties at the addresses specified in the attached Exhibit C. It shall be the responsibility of the parties to notify each other as provided in this Section in the event of a change of address. The parties shall have the right to rely on the last known address of the other parties. Unless otherwise provided in this Agreement, all documents and communications may be delivered by first class mail, or by a successful email or facsimile transmission. Escrow Agent shall not have any duty to confirm that the person sending any notice, instruction or other communication (a “Notice”) by electronic transmission (including by e-mail, facsimile transmission, web portal or other electronic methods) is, in fact, a person authorized to do so. Electronic signatures believed by Escrow Agent to comply with the ESIGN Act of 2000 or other applicable law (including electronic images of handwritten signatures and digital signatures provided by DocuSign, Orbit, Adobe Sign or any other digital signature provider acceptable to Escrow Agent) shall be deemed original signatures for all purposes. Each other party assumes all risks arising out of the use of electronic signatures and electronic methods to send Notices to Escrow Agent, including without limitation the risk of Escrow Agent acting on an unauthorized Notice, and the risk of interception or misuse by third parties. Notwithstanding the foregoing, Escrow Agent may in any instance and in its sole discretion require that an original document bearing a manual signature be
delivered to Escrow Agent in lieu of, or in addition to, any such electronic Notice.

7.3 **Severability.** In the event any provision of this Agreement is found to be invalid, voidable or unenforceable, the parties agree that unless it materially affects the entire intent and purpose of this Agreement, such invalidity, voidability or unenforceability shall affect neither the validity of this Agreement nor the remaining provisions herein, and the provision in question shall be deemed to be replaced with a valid and enforceable provision most closely reflecting the intent and purpose of the original provision.

7.4 **Successors.** This Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties. However, the Escrow Agent shall have no obligation in performing this Agreement to recognize any successor of any Transaction Party unless the Escrow Agent receives clear, authoritative and conclusive written evidence of the change of parties. No Transaction Party may assign this Agreement or any of its rights or obligations hereunder without the written consent of the other parties hereto.

7.5 **Merger or Consolidation.** Any corporation or association into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which the Escrow Agent is a party, shall be and become the successor Escrow Agent under this Agreement and shall have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

7.6 **Resignation or Removal of the Escrow Agent.** The Escrow Agent may resign at any time by furnishing 30 days advance written notice of its resignation to the District and the County. The District and the County may remove the Escrow Agent at any time by furnishing to the Escrow Agent 30 days advance joint written notice of its removal along with payment of all fees and expenses to which it is entitled through the date of termination. Such resignation or removal, as the case may be, shall be effective on the date specified in such notice and the Escrow Agent’s sole responsibility thereafter shall be to safely keep the Escrowed Funds and to deliver the same to a successor escrow agent as shall be appointed by the District and the County as evidenced by a joint written notice filed with the Escrow Agent or in accordance with a court order. If the District and the County have failed to appoint a successor prior to the expiration of thirty (30) days following receipt of the notice of resignation or removal, the Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon all the Transaction Parties.

7.7 **Representatives.** Each of the applicable persons designated on Exhibit D attached hereto has been duly appointed to act as an authorized representative hereunder and individually has full power and authority to execute and deliver any instruction or direction, to amend, modify or
waive any provision of this Agreement and to take any and all other actions as an authorized representative under this Agreement and no change in designation of such authorized representatives will be effective until written notice of such change is delivered to each other party to this Agreement and the Escrow Agent has had reasonable time to act upon it.

7.8 Call-back. In the event instructions, including funds transfer instructions, address change or change in contact information are given to the Escrow Agent (other than in writing at the time of execution of this Agreement), whether in writing, by facsimile or otherwise, the Escrow Agent is authorized, but not required, to seek confirmation of such instructions by telephone call-back to any person designated by the instructing party on Exhibit D hereto, and the Escrow Agent may rely upon the confirmation of anyone purporting to be the person so designated. The persons and telephone numbers for call-backs may be changed only in writing actually received and acknowledged by the Escrow Agent and will be effective only after the Escrow Agent has a reasonable opportunity to act on such changes. If the Escrow Agent is unable to contact any of the designated representatives identified in Exhibit D, the Escrow Agent is hereby authorized but will be under no duty to seek confirmation of such instructions by telephone call to any one or more of the District’s or the County’s executive officers ("Executive Officers"), as the case may be, which will include the titles of District General Manager and County Administrative Officer as the Escrow Agent may select. Such Executive Officer must deliver to the Escrow Agent a fully executed incumbency certificate, and the Escrow Agent may rely upon the confirmation of anyone purporting to be any such Executive Officer. The District and the County agree that the Escrow Agent may at its option record any telephone calls made pursuant to this Section. The Escrow Agent in any funds transfer may rely solely upon any account numbers or similar identifying numbers provided by the District or the County to identify (i) the beneficiary, (ii) the beneficiary’s bank, or (iii) an intermediary bank, even when its use may result in a transfer of funds to a person other than the intended beneficiary or to a bank other than the intended beneficiary’s bank or intermediary bank. The District and the County acknowledge that these optional security procedures are commercially reasonable.
IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

U.S. BANK NATIONAL ASSOCIATION

By: [Signature]
Name: Michelle Knutson
Title: Assistant Vice President

MERCED IRRIGATION DISTRICT

By: [Signature]
Name: John Swigard
Title: General Manager

COUNTY OF MARIPOSA

By: [Signature]
Name: Kevin Cann  Marshall Long
Title: Chair of the Board of Supervisors  Vice-Chair

APPROVED AS TO FORM:

[Signature]
STEVEN W. DAHLEM
COUNTY COUNSEL
EXHIBIT A – INVESTMENT

U.S. BANK MONEY MARKET DEPOSIT ACCOUNT

Description and Terms

The U.S. Bank Money Market Deposit Account is a U.S. Bank National Association ("U.S. Bank") interest-bearing money market deposit account designed to meet the needs of U.S. Bank’s Corporate Trust Services Escrow Group and other corporate trust customers of U.S. Bank. Selection of this investment includes authorization to place funds on deposit and invest with U.S. Bank.

U.S. Bank uses the daily balance method to calculate interest on this account (actual/365 or 366). This method applies a daily periodic rate to the principal balance in the account each day. Interest is accrued daily and credited monthly to the account. Interest rates are determined at U.S. Bank’s discretion, and may be tiered by customer deposit amount.

The owner of the account is U.S. Bank as agent for its corporate trust customers. U.S. Bank’s Corporate Trust Services Escrow Group performs all account deposits and withdrawals. Deposit accounts are FDIC insured per depositor, as determined under FDIC Regulations, up to applicable FDIC limits.

U.S. BANK IS NOT REQUIRED TO REGISTER AS A MUNICIPAL ADVISOR WITH THE SECURITIES AND EXCHANGE COMMISSION FOR PURPOSES OF COMPLYING WITH THE DODD-FRANK WALL STREET REFORM & CONSUMER PROTECTION ACT. INVESTMENT ADVICE, IF NEEDED, SHOULD BE OBTAINED FROM YOUR FINANCIAL ADVISOR.

Automatic Authorization

In the absence of specific written direction to the contrary to the extent and as authorized in the applicable escrow agreement, U.S. Bank is hereby directed to invest and reinvest proceeds and other available moneys in the U.S. Bank Money Market Deposit Account. The District and the County confirm that the U.S. Bank Money Market Deposit Account is a permitted investment under the operative documents and this authorization is the permanent direction for investment of the moneys until notified in writing of permissible alternate instructions.
EXHIBIT B

Schedule of Fees for Services as Escrow Agent For
Merced Irrigation District and County of Mariposa Water Diversion Works Project Construction Joint Escrow

<table>
<thead>
<tr>
<th>Service Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acceptance Fee - The acceptance fee includes the administrative review of documents, initial set-up of the account, and other reasonably required services up to and including the closing. This is a one-time, non-refundable fee, payable at closing. Does not include legal fees.</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>Escrow Agent Depository - Annual fee for the standard escrow agent depositary services associated with the administration of the account. Administration fees are payable in advance.</td>
<td>$2,000.00</td>
</tr>
</tbody>
</table>

Direct Out of Pocket Expenses: Reimbursement of expenses associated with the performance of our duties, including but not limited to publications, legal counsel’s fees and expenses after the initial closing, travel expenses, and filing fees will be billed at cost.

Extraordinary Administration Services: Extraordinary Administration Services ("EAS") are duties, responsibilities or activities not expected to be provided by the trustee or agent at the outset of the transaction, not routine or customary, and/or not incurred in the ordinary course of business, and may require analysis or interpretation. Billing for fees and expenses related to EAS is appropriate in instances where particular inquiries, events or developments are unexpected, even if the possibility of such circumstances could have been identified at the inception of the transaction, or as changes in law, procedures, or the cost of doing business demand. At our option, EAS may be charged on an hourly (time expended multiplied by current hourly rate), flat or special fee basis at such rates or in such amounts in effect at the time of such services, which may be modified by us in our sole and reasonable discretion from time to time. In addition, all fees and expenses incurred by the trustee or agent, in connection with the trustee’s or agent’s EAS and ordinary administration services and including without limitation the fees and expenses of legal counsel, financial advisors and other professionals, charges for wire transfers, checks, internet transfers and securities transactions, travel expenses, communication costs, postage (including express mail and overnight delivery charges), copying charges and the like will be payable, at cost, to the trustee or agent. EAS fees are due and payable in addition to annual or ordinary administration fees. Failure to pay for EAS owed to U.S. Bank when due may result in interest being charged on amounts owed to U.S. Bank for extraordinary administration services fees and expenses at the prevailing market rate.

General: Your obligation to pay under this Fee Schedule shall govern the matters described herein and shall not be superseded or modified by the terms of the governing documents, and survive any termination of the transaction or governing documents and the resignation or removal of the trustee or agent. This Fee Schedule shall be construed and interpreted in accordance with the laws of the state identified in the governing documents without giving effect to the conflict of laws principles thereof. You agree to the sole and exclusive jurisdiction of the state and federal courts of the state identified in the governing documents over any proceeding relating to or arising regarding the matters described herein. Payment of fees constitutes acceptance of the terms and conditions described herein.

Account approval is subject to review and qualification. Fees are subject to change at our discretion and upon written notice. Fees paid in advance will not be provided. The fees set forth above and any subsequent modifications thereof are part of your agreement. Finalization of the transaction constitutes agreement to the above fee schedule, including agreement to any subsequent changes upon proper written notice. In the event your transaction is not finalized, any related out-of-pocket expenses will be billed to you directly. Absent your written instructions to sweep or otherwise invest, all sums in your account will remain uninvested and no accrued interest or other compensation will be credited to the account. Payment of fees constitutes acceptance of the terms and conditions set forth.

IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT: To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a company, a Trust or any other legal entity, we will ask for documentation to verify its formation and existence as a legal entity. We may also ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.
EXHIBIT C
NOTICE ADDRESSES

Account Number: 263488000 -

Invoices, Notices, Deposit returns and communications to the District should be addressed to:

General Manager
Merced Irrigation District
744 West 20th Street
Merced, California 95340
Telephone: (209) 722-5761
Fax: (209) 354-2876

Invoices Notices, Deposit returns and communications to the County should be addressed to:

County Administrative Officer
County of Mariposa
PO Box 789
Mariposa CA 95338
Telephone: 209-966-2830
Fax: 209-966-6496

Requests from the District or the County to change the designated contact should be given in writing by the designated contact or an authorized employee.

Contracts, Deposits and notices to the Escrow Agent should be addressed to:

U.S. Bank National Association
Attn: Global Corporate Trust
One California Street, Suite 1000
San Francisco CA 94111
Telephone: 415-677-3597

Invoice inquiries and fee remittances to the Escrow Agent should be addressed to:

U.S. Bank National Association
CM-9690
PO BOX 70870
St. Paul MN 55170-9690
Exhibit D

Each of the following person(s) is a District Representative authorized to execute documents and direct the Escrow Agent as to all matters, including fund transfers, address changes and contact information changes, on the District’s behalf (only one signature required):

Don Knapp
Name
Specimen signature
Telephone No.

(209) 354-2853

John Sweigard
Name
Specimen signature
Telephone No.

(209) 765-4082

Name
Specimen signature
Telephone No.

If only one person is identified above, the following person is authorized for call-back confirmations:

Name
Telephone Number
Each of the following person(s) is a **County Representative** authorized to execute documents and direct the Escrow Agent as to all matters, including fund transfers, address changes and contact information changes, on County’s behalf (only one signature required):

<table>
<thead>
<tr>
<th>Name</th>
<th>Specimen signature</th>
<th>Telephone No.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Keith Williams</td>
<td></td>
<td>209.966.2830</td>
</tr>
</tbody>
</table>

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<tr>
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If only one person is identified above, the following person is authorized for call-back confirmations:

<table>
<thead>
<tr>
<th>Name</th>
<th>Telephone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Luis Merado, Auditor</td>
<td>(209) 742-1310</td>
</tr>
</tbody>
</table>