

AGREEMENT FOR CASH ADVANCES AND REPAYMENT

This Agreement for Cash Advances and Repayment ("Agreement") is made and entered into by and between the COUNTY OF FRESNO, a political subdivision of the State of California ("Fresno") and the San Joaquin Valley Insurance Authority ("SJVIA," or "the Authority"). Fresno and SJVIA each are a "Party" to this Agreement; and Fresno and SJVIA collectively are the "Parties" to this Agreement.

WHEREAS, Fresno, the County of Tulare ("Tulare"), and the Central San Joaquin Valley Risk Management Authority, a joint powers authority ("CSJVRMA"), are the members of the SJVIA, a joint powers agency separate and apart from such members and created by such members pursuant to Title 1, Division 7, Chapter 5, Article 1 (beginning with section 6500) of the California Government Code (the "Joint Powers Law") under that certain "Amended and Restated Joint Exercise Of Powers Agreement Creating The San Joaquin Valley Insurance Authority (SJVIA)," effective as of January 1, 2016 (the "SJVIA Joint Powers Agreement"); and

WHEREAS, under the Joint Powers Agreement, the SJVIA negotiates, purchases or otherwise funds health, pharmacy, vision, dental, and life insurance for the employees of Fresno, certain employees of Tulare, and employees of certain approved public agencies, known as participating entities, under certain conditions, in all instances subject to obtaining a financial commitment by the parties to the SJVIA Joint Powers Agreement and such other participating public agencies to pay for their respective costs of that insurance as provided in the SJVIA Joint Powers Agreement; and

WHEREAS, both Fresno and Tulare have, under Government Code section 6504, subdivision (c), the authority to provide advances of public funds to the SJVIA for the purposes set forth in SJVIA Joint Powers Agreement; specifically, Article 5 of the SJVIA Joint Powers Agreement provides that the SJVIA shall have all powers set forth in the Joint Powers Law, and is authorized to do all acts necessary for the exercise of those powers, and that such powers include, but are not limited to, receiving and using contributions and advances from any party or parties to the SJVIA Joint Powers Agreement, or participating entity or entities in the SJVIA as provided in Government Code section 6504; and

WHEREAS, Article 5, paragraph (f), of the SJVIA Joint Powers Agreement also provides that the SJVIA has the authority to repay advances made on or after December 15, 2015, by any party to the SJVIA Joint Powers Agreement on terms established in that paragraph or by separate written agreement; and

WHEREAS, the SJVIA has requested that Fresno and Tulare each make available for advance up to \$2,000,000, as needed by the SJVIA to temporarily assist the SJVIA in managing its cash flow needs; and

WHEREAS, the use of a short-term cash advance and repayment is the most cost effective method to ensure that the SJVIA has sufficient cash to pay its costs for the purposes of the SJVIA Joint Powers Agreement; and

WHEREAS, the Fresno County Auditor-Controller/Treasurer-Tax Collector has recommended to the Board of Supervisors of the County of Fresno, and by its adoption

on December 15, 2015 of Resolution No. 15-608, the Board of Supervisors of the County of Fresno has approved, the making of a short-term cash advance or advances up to the maximum amount of \$2,000,000, by Fresno to the SJVIA, and, as requested by such Resolution, to be repaid in full by the SJVIA, plus accrued interest thereon at the then-current County of Fresno Treasury Pool interest rate, at the earlier of: (a) when there is sufficient cash balance in SJVIA's Chase Bank account or accounts to cover regular SJVIA cash flow needs, as determined by SJVIA Manager or the SJVIA Manager (or both of them) and the SJVIA Auditor-Treasurer; or (b) December 30, 2017, and as more thoroughly specified herein in Article III, below; and

WHEREAS, Fresno is informed that the Board of Supervisors of the County of Tulare desires to authorize an advance or advances to the SJVIA after December 15, 2015 and on or before June 30, 2016, up to the maximum amount of \$2,000,000 to be provided by Tulare to the SJVIA, and will request repayment thereof by the SJVIA, as provided in accordance with its own resolution and/or a separate agreement between Tulare and the SJVIA; and

WHEREAS, on December 23, 2015, the SJVIA Manager requested and Fresno, under the authority provided by Resolution No. 15-608, advanced \$1,500,000 to the SJVIA.

NOW THEREFORE, in consideration of their mutual promises, covenants and conditions, hereinafter set forth, the sufficiency of which is acknowledged, the Parties hereto agree as follows.

ARTICLE I DEFINITIONS

For purposes of this Agreement, the following words or phrases shall be deemed to have the following meanings:

- A. "SJVIA Auditor-Treasurer" has the same meaning as the term "Auditor-Treasurer" in the SJVIA Joint Powers Agreement.
- B. "Fresno Auditor-Controller" means the Auditor-Controller of the Office of the Fresno County Auditor-Controller/Treasurer-Tax Collector, which acts as the chief financial officer for Fresno.
- C. "SJVIA Manager" means the "Manager" or the "Assistant Manager," as those terms are defined in the SJVIA Joint Powers Agreement, or both of them acting together.
- D. "The County of Fresno Treasury Pool interest rate" shall mean the weighted average of the interest rate, if such rate is modified during the interval between the time of the advance and the time of its repayment, as applied to the funds advanced during each period, or portion thereof, that such interest rate is in effect. If such rate is modified during the interval between the time of the advance and the time of its repayment, Fresno shall give to the SJVIA Manager prompt written notice of that change.

ARTICLE II
PURPOSES OF THIS AGREEMENT

A. This Agreement is made in furtherance of the determination by the SJVIA Board to request that Fresno and Tulare, which are two of the members of the SJVIA, each make available up to \$2,000,000 to the SJVIA, to temporarily assist the SJVIA in managing its cash flow. To that end, the purpose of this Agreement is to provide the terms and conditions pursuant to which Fresno and the SJVIA will implement the SJVIA's use of Fresno's advance and the repayment transaction. It is anticipated by the Parties hereto that a separate agreement between Tulare and the SJVIA will provide the terms and conditions pursuant to which Tulare and the SJVIA will implement the SJVIA's use of Tulare's advance and the repayment transaction (the "Tulare-SJVIA Cash Advance and Repayment Agreement").

B. The legal authority for this Agreement is provided by Government Code Section 6504, subdivision (c), which authorizes the County to provide advances of public funds to the SJVIA for the purposes set forth in SJVIA Joint Powers Agreement, and Article 5, paragraph (f), of the SJVIA Joint Powers Agreement, which authorizes the SJVIA to repay such advances on terms provided in that paragraph or by separate written agreement.

ARTICLE III
ADVANCE AND REPAYMENT

A. Fresno has made or will make available up to \$2,000,000 to the SJVIA under the terms and conditions of this Agreement.

B. The SJVIA Auditor-Treasurer shall diligently monitor the SJVIA's Chase Bank cash flow daily reports on-line, including but not limited to, keeping daily records of such bank account information. Such information shall be available, upon request, to the Fresno Auditor-Controller.

C. The Parties hereto desire for the SJVIA Auditor-Treasurer to have the flexibility to match the SJVIA's need for funds to the amount of the request for such funds, up to the maximum amount of the available funds under this Agreement. To that end, from time to time as the need arises during the term of this Agreement, the SJVIA Auditor-Treasurer may, with the written concurrence of the SJVIA Manager, make a written request to the Fresno Auditor-Controller for a cash advance to the SJVIA up to the maximum amount of the funds made available by Fresno, under this Agreement. Such written request and written concurrence made on behalf of the SJVIA may be transmitted by email to the Fresno Auditor-Controller.

In case any SJVIA officer who made such request, or gave such concurrence, as applicable, shall cease to be such officer before the SJVIA's full repayment of all advances, plus accrued interest thereon, under this Agreement, such request or concurrence, as applicable, shall nevertheless be valid and sufficient for all purposes of this Agreement as if such officer had remained in office until the full repayment of all advances, plus accrued interest thereon, under this Agreement.

D. The Fresno Auditor-Controller shall have the right to request information from the SJVIA Auditor-Treasurer with respect to the SJVIA's need for the requested advance of funds, and shall promptly either approve or disapprove the SJVIA's request for an advance of funds up to the maximum amount of Fresno's available funds under this Agreement. Such approval or disapproval made by the Fresno Auditor-Controller may be transmitted by email to the SJVIA Auditor-Treasurer. If the Fresno Auditor-Controller informs the SJVIA Auditor-Treasurer of Fresno's approval of the requested advance, then Fresno shall, not later than 2:00 PM of the immediately following Fresno business day, make available to the SJVIA 100 percent of the requested advance, up to the maximum amount of Fresno's available funds under this Agreement.

E. Fresno will undertake its cash advance(s) to the SJVIA by making a journal entry in its accounting system, and Fresno will wire the funds from Fresno's bank accounts at Bank of the West to the SJVIA's Claims Reserve # 819 bank account at Chase Bank, or, upon written request of the SJVIA Auditor-Treasurer, to such other SJVIA bank account at Chase Bank for the purposes of this Agreement.

F. The SJVIA shall repay in full to Fresno the amount or amounts advanced by Fresno to the SJVIA under this Agreement, plus accrued interest at the County of Fresno Treasury Pool interest rate on the unpaid balance advanced by Fresno to the SJVIA, until all such amounts are fully paid by SJVIA to Fresno, which shall in any event be at the earlier of:

1. When there is sufficient cash balance in SJVIA's Chase Bank to cover regular SJVIA cash flow needs, as determined by SJVIA Manager and SJVIA Auditor-Treasurer; or
2. December 30, 2017.

If Tulare provides any amount of funds to SJVIA, as its own separate advance pursuant to the Tulare-SJVIA Cash Advance and Repayment Agreement referenced in the preceding Paragraph II.A, then Fresno and Tulare shall be repaid simultaneously and pro-rata based on the principal amount advanced by each of them to the SJVIA.

To avoid unnecessary amounts advanced by Fresno and Tulare, the SJVIA may repay a portion of any advance, subject to the terms and conditions of this Agreement, without affecting the SJVIA's right to request an advance under this Agreement, provided that such repayment complies with the foregoing provisions of this Section III.F.

G. The principal amount of funds repaid by the SJVIA to Fresno under the preceding Paragraph III.F shall be available to the SJVIA, up to the maximum amount of Fresno's available funds under this Agreement, for an additional request or requests during the term of this Agreement, to be repaid according to the terms provided in this Agreement.

H. The SJVIA Auditor-Treasurer will charge the SJVIA, under the SJVIA Joint Powers Agreement, an hourly rate for treasury and accounting services provided to SJVIA in relation to this Agreement.

I. In addition to any other bank records to be kept and provided to Fresno under this Agreement, the SJVIA Auditor-Treasurer will prepare and provide quarterly financial

reports, including cash flow projections, of the SJVIA to the Fresno Auditor-Controller not later than thirty (30) days following the relevant quarter.

ARTICLE IV GENERAL PROVISIONS

A. TERM: This Agreement is effective retroactive to December 23, 2015, which is the date that Fresno first advanced funds to the SJVIA under this Agreement, and this Agreement shall continue in full force and effect through and including December 30, 2017; provided, that SJVIA's obligation to repay all advances, plus accrued interest at the County of Fresno Treasury Pool interest rate on the unpaid balance advanced by Fresno to the SJVIA, until all such amounts are fully repaid by SJVIA, and to perform any other obligations of SJVIA under this Agreement, shall survive the termination of this Agreement. Any action taken by any of the officers or employees of the Parties hereto prior to the Parties' approval and execution of this Agreement is hereby affirmed, approved, and ratified.

B. DEFAULT AND MATERIAL BREACH:

1. Default. The failure by SJVIA to timely meet its obligation under Article III, Section F, to repay in full, any and all advances made by Fresno to SJVIA hereunder, plus accrued interest at the County of Fresno Treasury Pool interest rate on the unpaid balance advanced by Fresno to the SJVIA until all such amounts are fully repaid by SJVIA, or to perform any other obligation hereunder, shall constitute a default under this Agreement by SJVIA.
2. Material Breach. In the event of a default by SJVIA, as provided in the preceding Paragraph IV.B.1, Fresno may, at Fresno's election, immediately declare that SJVIA is in material breach of this Agreement, and provide to SJVIA written notice of SVJIA's material breach of this Agreement; such written notice shall provide for a reasonable period not to exceed 30 days in which the SJVIA may cure the breach; and if the SJVIA fails to cure the breach within the reasonable period not to exceed 30 days as stated in the notice, all amounts due and owing to Fresno pursuant to the terms of this Agreement, shall become immediately due and payable in full, plus accrued interest at the County of Fresno Treasury Pool interest rate on the unpaid balance advanced by Fresno to the SJVIA until all such amounts are fully repaid by SJVIA, and Fresno may exercise its rights and remedies under this Agreement, and as they may otherwise be available in law or equity.

C. INDEPENDENT RELATIONSHIP: Nothing contained in this Agreement shall create, or be deemed to create, any relationship of principal-agent, master-servant, employer-employee, partnership, joint venture, or association between any one or more of the Parties to this Agreement. The relationship between the Parties hereto is that of independent contractors, with each Party at all times acting in an independent capacity from the other.

D. INTERPRETATION: The Parties hereto acknowledge that this Agreement in its final form is the result of the combined efforts of the Parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor of or against either Party, but rather by construing the terms in accordance with their generally accepted meaning.

E. TIME OF ESSENCE: Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties hereto, respectively, under this Agreement.

F. GOVERNING LAW; VENUE: Venue for any action arising out of or related to this Agreement shall only be in Fresno County, California. The rights and obligations of the Parties hereto and all interpretation and performance of this Agreement shall be governed in all respects by the laws of the State of California.

G. AUDITS AND INSPECTIONS: SJVIA shall at any time during business hours, and as often as Fresno may deem necessary, make available to Fresno for examination all of SJVIA's records and data with respect to the matters covered by this Agreement. SJVIA shall, upon request by Fresno, permit such Party's representatives to audit and inspect all of such records and data necessary to ensure SJVIA's compliance with the terms of this Agreement.

If this Agreement exceeds ten thousand dollars (\$10,000.00), SJVIA shall be subject to the examination and audit of the Auditor General for a period of three (3) years after final payment under contract (Government Code Section 8546.7).

H. NOTICES: The identity and addresses of the persons authorized to give and receive notices under this Agreement include the following:

FRESNO

Auditor-Controller/Treasurer-Tax Collector
Hall of Records, Room 5
2281 Tulare St
Fresno, CA 93721

Director of Personnel Services
2220 Tulare St, 14th Floor
Fresno, CA 93721

SJVIA

SJVIA Manager/Assistant Manager
2220 Tulare St, 14th Floor
Fresno, CA 93721

AND

2900 West Burrell Ave
Visalia, CA 93291

Any and all notices between the Parties hereto provided for or permitted under this Agreement shall be in writing and shall be deemed duly served when personally delivered to one of the Parties, or in lieu of such personal service, when deposited in the United States Mail, postage prepaid, addressed to such Party, or as of one business day after

receipt by email.

I. NON-ASSIGNMENT: It is understood that SJVIA shall not assign, sublet, subcontract, or transfer any of SJVIA's rights, duties, or obligations under this Agreement, without the prior express, written consent of Fresno. Such consent and approval may be given only by the Fresno County Board of Supervisors.

J. NO THIRD PARTY BENEFICIARIES: Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than Fresno and Tulare and the SJVIA, any right, remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, and all terms, covenants, promises and agreements in this Agreement made by and on behalf of the SJVIA shall be for the sole and exclusive benefit of Fresno and Tulare.

K. INDEMNIFICATION:

Subject to Article 15, paragraph (b), of the SJVIA Joint Powers Agreement, the SJVIA agrees to indemnify, save, hold harmless, and at Fresno's request, defend Fresno and its officers, agents, and employees, from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to Fresno as a direct result of willful misconduct by SJVIA, its officers, agents, or employees in performance of this Agreement, and from any and all costs and expenses, damages, liabilities, claims, and losses occurring or resulting to any person, firm, or corporation who may be injured or damaged as a direct result of the willful misconduct of SJVIA, its officers, agents, or employees in performance of this Agreement.

It is further provided that SJVIA's obligations under the provisions of this Section IV.K. shall survive one year after the termination or expiration of this Agreement.

L. AMENDMENTS: Any changes to this Agreement requested by any Party shall be effective only if mutually agreed upon in writing by duly authorized representatives of each of the Parties hereto. This Agreement shall not be modified or amended, nor shall any rights of a party hereto be waived, except by such a written instrument approved by each of the Parties hereto in the manner provided herein.

M. WAIVER: The waiver, if any, by Fresno of any breach of violation of any provision of this Agreement by the SJVIA shall not be deemed to be a waiver by Fresno of any breach or violation by SJVIA of any other provision, nor of any subsequent breach or violation by SJVIA of the same or any other provision. Fresno's acceptance of any partial payment by SJVIA of any repayment obligation arising hereunder, including but not limited to a payment of only the principal amount due and payable, shall not be deemed a waiver by Fresno of the right to full repayment by SJVIA of the remaining amount due and payable by SJVIA to Fresno pursuant to the terms hereof, including but not limited to accrued interest at the County of Fresno Treasury Pool interest rate on the unpaid balance advanced by Fresno to the SJVIA.

N. LIMITATION ON LIABILITY OF SJVIA OFFICERS AND EMPLOYEES: No officer or employee of the SJVIA shall be individually or personally liable for the repayment of the interest on or principal with respect to any advance made hereunder by Fresno, but nothing herein contained shall relieve any officer or employee of the SJVIA from the performance of any official duty necessary to cause the SJVIA to repay such amounts to

Fresno.

O. COUNTERPARTS: This Agreement may be executed in one or more original counterparts, all of which together constitute one and the same agreement.

P. ENTIRE AGREEMENT: This Agreement constitutes the entire agreement between SJVIA and Fresno with respect to the subject matter hereof and supersedes all previous negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever unless expressly included in this Agreement.

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IN WITNESS WHEREOF, the Parties hereto have executed this AGREEMENT FOR CASH ADVANCES AND REPAYMENT as of the date and year first written above.

COUNTY OF FRESNO

Ernest Buddy Mendes
Ernest Buddy Mendes,
Chairman, Board of Supervisors

ATTEST:

BERNICE E. SEIDEL, Clerk
Board of Supervisors

By Susan Bishop
Deputy

REVIEWED & RECOMMENDED
FOR APPROVAL

Jean Rousseau
Jean Rousseau, County Administrative Officer

APPROVED AS TO LEGAL FORM

Daniel C. Cederborg,
County Counsel

Daniel C. Cederborg
By: Deputy

APPROVED AS TO ACCOUNTING FORM

Vicki Crow, C.P.A., Auditor-Controller/Treasurer-Tax Collector

By: Vicki Crow

SAN JOAQUIN VALLEY INSURANCE AUTHORITY

[Signature]
By: _____

REVIEWED & RECOMMENDED
FOR APPROVAL

By: Rhonda Sjostrom
Rhonda Sjostrom, Manager

APPROVED AS TO LEGAL FORM

Kathleen Bales-Lange
Daniel C. Cederborg,
County Counsel

By: [Signature]
Deputy