

MEMORANDUM

DEPARTMENT OF PUBLIC WORKS

County of Placer

TO: BOARD OF SUPERVISORS DATE: July 13, 2010
FROM: ^{KD} KEN GREHM / PETER KRAATZ
SUBJECT: COOPERATIVE AGREEMENT WITH NORTH TAHOE PUBLIC UTILITY DISTRICT (NTPUD) -- FOR THE CONSTRUCTION OF A BUS SHELTER AT TAHOE VISTA RECREATION AREA

ACTION REQUESTED / RECOMMENDATION

Adopt a Resolution authorizing the Director of Public Works to execute a Cooperative Agreement with North Tahoe Public Utility District (NTPUD), with County Counsel and Risk Management review and approval, to construct a bus shelter at the Tahoe Vista Recreation Area along eastbound Highway 28 and just east of National Avenue, and authorize the Director of Public Works or his designee to execute the Cooperative Agreement and all related documents.

BACKGROUND / SUMMARY

The Department's Tahoe Area Regional Transit (TART) public bus systems serve the Tahoe area. Many of the existing bus stops are unpaved, open waiting areas.

The agreement will allow for construction to occur under the responsibility and management of the County. The shelter will be built at an existing TART bus stop adjacent to eastbound lanes on Highway 28 and along the lake side of the highway on NTPUD property at the location of the Tahoe Vista Recreation Area. A construction contract for the Tahoe Vista Shelter will be awarded to the low bidder. The County will maintain the shelter.

ENVIRONMENTAL

A Negative Declaration was prepared for this project and a Notice of Determination executed by the North Tahoe Public Utility District on February 12, 2002 pursuant to the provisions of CEQA.

FISCAL IMPACT

This agreement allows the County under the direction and management of the Department of Public Works to construct a bus shelter at the Tahoe Vista Recreation Area. There is no fiscal impact to the County for this agreement.

Attachments:

- Resolution
- Location Map
- Final Copy of Cooperative Agreement

Before the Board of Supervisors County of Placer, State of California

In the matter of: A RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO EXECUTE THE ATTACHED COOPERATIVE AGREEMENT WITH NORTH TAHOE PUBLIC UTILITY DISTRICT (NTPUD), WITH COUNTY COUNSEL & RISK MGMT REVIEW & APPROVAL, TO CONSTRUCT A BUS SHELTER AT THE TAHOE VISTA RECREATION AREA ALONG EASTBOUND HIGHWAY 28 AND JUST EAST OF NATIONAL AVENUE AND AUTHORIZE THE DIRECTOR OF PUBLIC WORKS OR HIS DESIGNEE TO EXECUTE THE COOPERATIVE AGREEMENT AND ALL RELATED DOCUMENTS

Resol. No:.....

Ord. No:.....

First Reading:.....

The following RESOLUTION was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, by the following vote on roll call:

Ayes:

Noes:

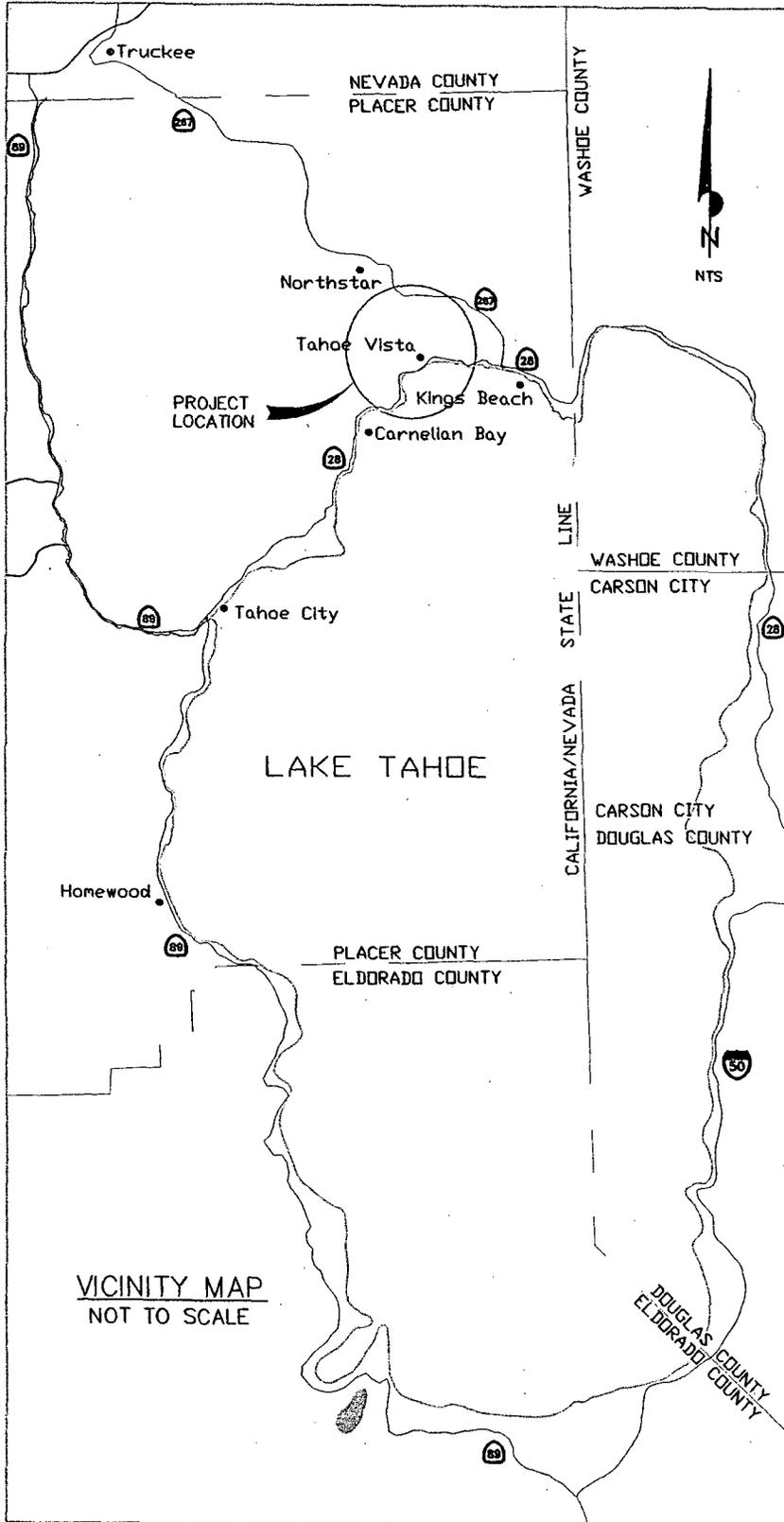
Absent:

Signed and approved by me after its passage.

Chairman, Board of Supervisors

Attest:
Clerk of said Board

BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Placer, State of California, that this Board approves a cooperative agreement between the Department of Public Works and the North Tahoe Public Utility District (NTPUD), with County Counsel and Risk Management review and approval, to construct a bus shelter at the Tahoe Vista Recreation Area along Highway 28 and authorizes the Director of Public Works or his designee to execute the cooperative agreement and all related documents.

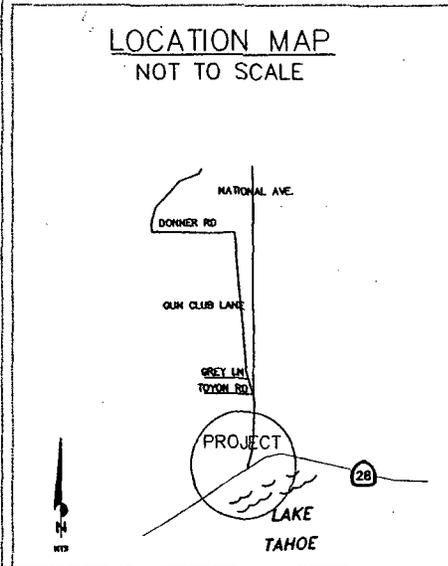


VICINITY MAP
NOT TO SCALE

VICINITY AND LOCATION MAP

PLACER COUNTY
DEPARTMENT OF
PUBLIC WORKS

BUS SHELTER AT TAHOE VISTA
RECREATION AREA - EAST BOUND



LOCATION MAP
NOT TO SCALE

AGREEMENT
BETWEEN PLACER COUNTY AND NORTH TAHOE PUBLIC UTILITY DISTRICT
RELATING TO TART BUS SHELTER IN TAHOE VISTA

This Agreement is made and entered into this _____ day of _____, 2010 between the COUNTY OF PLACER, a political subdivision of the State of California, herein called "COUNTY", and the NORTH TAHOE PUBLIC UTILITY DISTRICT hereinafter called "DISTRICT".

RECITALS

WHEREAS, the COUNTY operates the Tahoe Area Regional Transit (TART) system in the Lake Tahoe area; and

WHEREAS, TART manages numerous bus stops and shelters throughout the Lake Tahoe area; and

WHEREAS, TART desires to improve the existing transit bus stop at the southeast corner of National Avenue and State Route 28 on DISTRICT property; and

WHEREAS, the COUNTY has obtained funding to provide transit bus stop improvements and associated maintenance at the DISTRICT property location; and

WHEREAS, the COUNTY and the DISTRICT are entering into this Agreement to facilitate the COUNTY's improvement of the TART bus stop at the DISTRICT property location.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN PROVIDED, it is agreed as follows:

1. The DISTRICT hereby provides the COUNTY with full authorization and authority to construct a bus shelter on DISTRICT property located at the southeast corner of National Avenue and State Route 28 on APN 117-110-063-000. Prior to installation, COUNTY will share plans and specifications for DISTRICT's review and approval.
2. The COUNTY will install and maintain the shelter at the sole expense of the COUNTY.
3. The DISTRICT has completed most of the work for a project known as Tahoe Vista Recreation Area (Phase 1), but a future shelter remains to be constructed. The COUNTY will provide the future shelter through a construction contract administered by the Department of Public Works.
4. This document represents the entire agreement between the parties. Any changes must be agreed upon in writing by both parties.
5. This agreement is provided to allow the COUNTY to construct and operate the proposed bus shelter. The agreement does not propose any work within the State Right of Way. Any improvements that are required in the State Right of Way will be completed by the DISTRICT at a later time.
6. Performance and Payment Bonds will be provided by the general contractor prior to the commencement of construction to the COUNTY. Each bond will not be less than 100% of the awarded bid price for the project.

7. The DISTRICT will provide all previously approved permits and CEQA documentation that will allow the COUNTY to construct the project.
8. The DISTRICT acknowledges that COUNTY is a self-insured public entity. Parties agree that COUNTY may satisfy their insurance requirements through a program of self-insurance.

In the event COUNTY discontinues its policy of self-insurance, COUNTY agrees to procure and continue in force and effect insurance coverage as set forth below.

COUNTY agrees to obtain from Project General Contractor separate Certificates of Insurance, in companies acceptable to County, with a Best's Rating of no less than A-VII showing.

a. Worker's Compensation and Employers Liability Insurance:

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than one million dollars (\$1,000,000) each accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit for bodily injury by disease, and one million dollars (\$1,000,000) each employee for bodily injury by disease.

If there is an exposure of injury to the Project General Contractor's employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice - "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

The Project General Contractor shall require all Subcontractors to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation shall be filed forthwith with the County upon demand.

b. General Liability Insurance:

Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of the Project General Contractor, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:

- (1) Premises and operations;
- (2) Products and completed operations;
- (3) Contractual liability insuring the obligations assumed by County in this Agreement;
- (4) Broad form property damage (including completed operations);
- (5) Explosion, collapse, and underground hazards;
- (6) Personal injury liability; and

Except with respect to bodily injury and property damage included within the products and completed operations hazards, the aggregate limits, where applicable, shall apply separately to Contractor's work under the agreement.

One of the following forms is required: (1) Comprehensive General Liability; (2) Commercial General Liability (Occurrence); or (3) Commercial General Liability (Claims Made).

If the Project General Contractor carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for bodily injury, property damage, and Personal Injury Liability of: One million dollars (\$1,000,000) each occurrence; One million dollars (\$2,000,000) aggregate

If the Project General Contractor carries a Commercial General Liability (Occurrence) policy:

- (1) The limits of liability shall not be less than: One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage); One million dollars (\$1,000,000) for Products-Completed Operations; One million dollars (\$2,000,000) General Aggregate.
- (2) If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be two million dollars (\$2,000,000).

Special Claims Made Policy Form Provisions:

The Project General Contractor shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of County, which consent, if given, shall be subject to the following conditions:

- (1) The limits of liability shall not be less than: One million dollars (\$1,000,000) each occurrence (combined single limit for bodily injury and property damage); One million dollars (\$1,000,000) aggregate for Products Completed Operations; One million dollars (\$2,000,000) General Aggregate.
- (2) The insurance coverage provided by the Project General Contractor shall contain language providing coverage up to six (6) months following the completion of the contract(s) entered into with County in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

c. Endorsements:

Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

1. "The County of Placer and the North Tahoe Public Utility District, its respective officers, agents, employees, and volunteers are to be covered as insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."

2. "The insurance provided by [Project General Contractor], including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs maintained by the County of Placer or the North Tahoe Public Utility District and no insurance held or owned by the County of Placer or the North Tahoe Public Utility District shall be called upon to contribute to a loss."
3. "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

d. Automobile Liability Insurance:

Automobile Liability insurance covering bodily injury and property damage in an amount no less than two million dollars (\$2,000,000) combined single limit for each occurrence.

Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

e. Pollution Liability:

Contractor shall purchase and thereafter maintain, so long as such insurance is available on a commercially reasonable basis, Pollution Liability insurance in the amount of five hundred thousand dollars (\$500,000) covering liability arising from the sudden and accidental release of pollution on the Facility Site.

9. All work done on the Project shall be performed pursuant to construction contracts approved by COUNTY. All design and construction work for the Project shall be performed by licensed contractors, engineers or architects, as applicable. All such work shall be conducted in a first class and professional fashion in accordance with construction plans approved by the DISTRICT and in compliance with all applicable local, state and federal statutes, codes, ordinances, laws, rules, regulations and orders, including without limitation the Americans with Disabilities Act and any rules, regulations or orders issued or promulgated by any governmental agency with jurisdiction over the Project (collectively, "Applicable Laws"). COUNTY shall, and shall require its contractors, engineers and architects to, take all reasonably necessary measures to minimize any damage, disruption or inconvenience caused by such work and make adequate provision for the safety of all persons affected thereby.
10. COUNTY shall carry out and cause the Project Contractor to carry out the construction of the Project in conformity with all Applicable Laws, including without limitation, all applicable federal and state labor laws and standards. COUNTY shall cause the Project Contractor and the subcontractors to pay prevailing wages in the construction of the Project as those wages are determined pursuant to California Labor Code Section 1720 *et seq.* and the regulations adopted pursuant thereto (collectively, the "Prevailing Wage Laws") and to comply with all other applicable provisions of the Prevailing Wage Laws. COUNTY shall cause the Project Contractor and subcontractors to keep and retain such records as are necessary to determine if such prevailing wages have been paid as required pursuant to Prevailing Wage Laws. Copies of the currently applicable per diem prevailing wages are available from the Department of Industrial Relations at www.dir.ca.gov on the Internet. During the construction of the Project, COUNTY shall cause the Project Contractor to post at the Project site the applicable prevailing rates of

per diem wages. COUNTY shall, and shall require the Project Contractor and subcontractors to indemnify, hold harmless and defend (with counsel approved by DISTRICT) the DISTRICT from and against all Claims which directly or indirectly, in whole or in part, are caused by, arise from, or relate to the failure or alleged failure of any person or entity (including COUNTY's contractor and the subcontractors) to pay prevailing wages as determined pursuant to Prevailing Wage Laws in connection with construction of the Project, the failure or alleged failure to comply with any requirement of competitive bidding for the construction or operation of the Project, or the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to the Prevailing Wage Laws, or any act or omission of COUNTY related to this Agreement with respect to the payment or requirement of payment of prevailing wages or any requirement of competitive bidding for the construction of the Project, whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is further agreed that DISTRICT does not, and shall not, waive any rights against COUNTY which it may have by reason of this indemnity and hold harmless agreement because of the acceptance by DISTRICT, or the deposit with DISTRICT, of any of the insurance policies described in this Agreement. The representations, warranties and covenants contained in this Section shall survive the expiration or termination of this Agreement.

11. During construction of the Project there shall be no discrimination or harassment on the basis of race, religion, color, creed, sex, sexual orientation, marital status, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), denial of family care leave, ancestry or national origin in the hiring, firing, promoting or demoting of any person engaged in construction of the Project. COUNTY shall direct its contractors and subcontractors to refrain from discrimination on such basis. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f) set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement. Contractors shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

12. Indemnity.

DISTRICT shall indemnify, defend and hold harmless COUNTY and its elected and appointed officials, employees, agents and contractors (collectively, "Indemnities") from and against any and all loss, liability, cost, claim, cause of action, demand, judgment, expense, (including reasonable attorneys' fees) or damage (collectively "Claims") arising from or related to COUNTY's performance or failure to perform its obligations pursuant to this Agreement, except to the extent the same are attributable to the gross negligence or willful misconduct of the Indemnities.

COUNTY shall indemnify, defend and hold harmless DISTRICT and its elected and appointed officials, employees, agents and contractors (collectively, "DISTRICT Indemnities") from and against any and all Claims arising from or related to DISTRICT's

performance or failure to perform its obligations pursuant to this Agreement, except to the extent the same are attributable to the gross negligence or willful misconduct of the Indemnities.

To the maximum extent permitted by law, COUNTY shall require all consultants and contractors engaged in design, construction or other work on the Project to indemnify, defend and hold harmless the Indemnities and the COUNTY Indemnities from all Claims arising from or related to the design or construction of the Project.

This Section 12 shall survive the expiration or earlier termination of this Agreement.

13. In the Event of Default under this Agreement shall occur if a Party fails to fulfill or perform any obligation required to be fulfilled or performed by such Party hereunder and the failure of such Party to cure such default within thirty (30) days after receipt of written notice thereof (or in the case of a default that cannot be reasonably cured within such period, the failure to commence to cure such default within thirty (30) days and thereafter to proceed with due diligence to cure such default). Upon the occurrence of an Event of Default hereunder, the non-breaching Party may initiate mediation of the controversy, claim, or dispute in accordance with the rules and procedures of the American Arbitration Association, and the other Party shall participate in good faith. The Parties shall bear the cost of the mediation equally and each shall pay its own attorneys' fees and expenses in such mediation. If the Parties are unable to mediate successfully, the non-breaching Party may take any action available to it in law or in equity, including without limitation, pursuit of an order for specific performance. The remedies afforded hereunder are cumulative. Failure to provide notice of any default shall not constitute a waiver of such default. It is expressly understood and agreed that no breach of this Agreement shall entitle either Party to cancel, rescind or otherwise terminate this Agreement. The foregoing limitation shall not affect, in any manner, any other right or remedy which either Party may have by reason of any breach of this Agreement.

14. Miscellaneous.

Term of this Agreement. The term of this Agreement shall commence on the Effective Date and unless sooner terminated pursuant to the terms hereof, shall expire sixty (60) days after the recordation of a Notice of Completion for the Project.

Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

- (i) Personal delivery, in which case notice is effective upon delivery;
- (ii) Certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt;
- (iii) Nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service;
- (iv) Facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered

by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a non-business day.

IN WITNESS WHEREOF the parties have executed this Agreement on the date first above written.

PLACER COUNTY, a political
subdivision of the State of California

NORTH TAHOE PUBLIC UTILITY
DISTRICT, a public agency

By: _____
Ken Grehm, Director,
Department of Public Works

By: _____
Jon Curtis Aaron
General Manager/CEO

Date: _____

Date: _____

Approved as to form:

Approved as to form:

By: _____
County Counsel, Placer County

By: _____
District Counsel

Date: _____

Date: _____

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