

MEMORANDUM

DEPARTMENT OF PUBLIC WORKS

County of Placer

TO: BOARD OF SUPERVISORS
DATE: June 10, 2008

FROM: KEN GREHM / ^{KS}PETER KRAATZ

SUBJECT: APPROVAL OF LAKE TAHOE WATERSHED URBAN STORM WATER MASTER PLANNING AGREEMENT, LAKE TAHOE

ACTION REQUESTED / RECOMMENDATION

Adopt a Resolution to approve the Lake Tahoe Watershed Urban Storm Water Master Planning Agreement between Placer County and the U.S. Army Corps of Engineers (USACE) to receive services in the amount of \$300,000, by which the USACE will provide planning and design assistance to Placer County for storm water master planning in Lake Tahoe; and authorizing the Director of Public Works or his designee to execute the Agreement and all related documents with County Counsel review and approval.

BACKGROUND / SUMMARY

Since 1984, Public Works has successfully planned, designed, and constructed over 50 erosion control projects throughout the Lake Tahoe basin portion of Placer County based on state and federal regulations and programs directed towards preserving and improving the water quality and clarity of Lake Tahoe. Currently, to better determine where future erosion control efforts should be targeted, state regulations require us to perform a storm water master planning effort. Through funding available from USACE, the attached agreement, scope, and resolution were developed to delineate and prioritize areas in Lake Tahoe that represent sources of erosion. This effort will culminate in a product to assist Public Works as to which and to what degree and type areas in our jurisdiction necessitate storm water quality improvements.

The storm water planning efforts will occur throughout the Lake Tahoe basin portion of Lake Tahoe (see attached location map).

ENVIRONMENTAL

The master planning agreement is exempt from CEQA, pursuant to CEQA Guidelines, Section 15306, Information Collection, Class 6 provisions pertaining to data collection, research, and resource evaluation.

FISCAL IMPACT

The total project cost is estimated to be \$425,000 with \$300,000 provided by the USACE through the attached agreement and \$125,000 provided by existing funding from the California Tahoe Conservancy (CTC). The project is fully funded through the above identified funding. The CTC funding is already included in the 2007-08 Fiscal Year Budget, and the USACE funding will be included in the 2008-09 Fiscal Year Budget.

Attachments:

Resolution; Location Map
Agreement Draft

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

In the matter of: A RESOLUTION APPROVING
THE LAKE TAHOE WATERSHED URBAN
STORM WATER MASTER PLANNING
AGREEMENT BETWEEN PLACER COUNTY
AND THE U.S. ARMY CORPS OF ENGINEERS
AND AUTHORIZING THE DIRECTOR OF
PUBLIC WORKS OR HIS DESIGNEE TO
EXECUTE THE AGREEMENT

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.

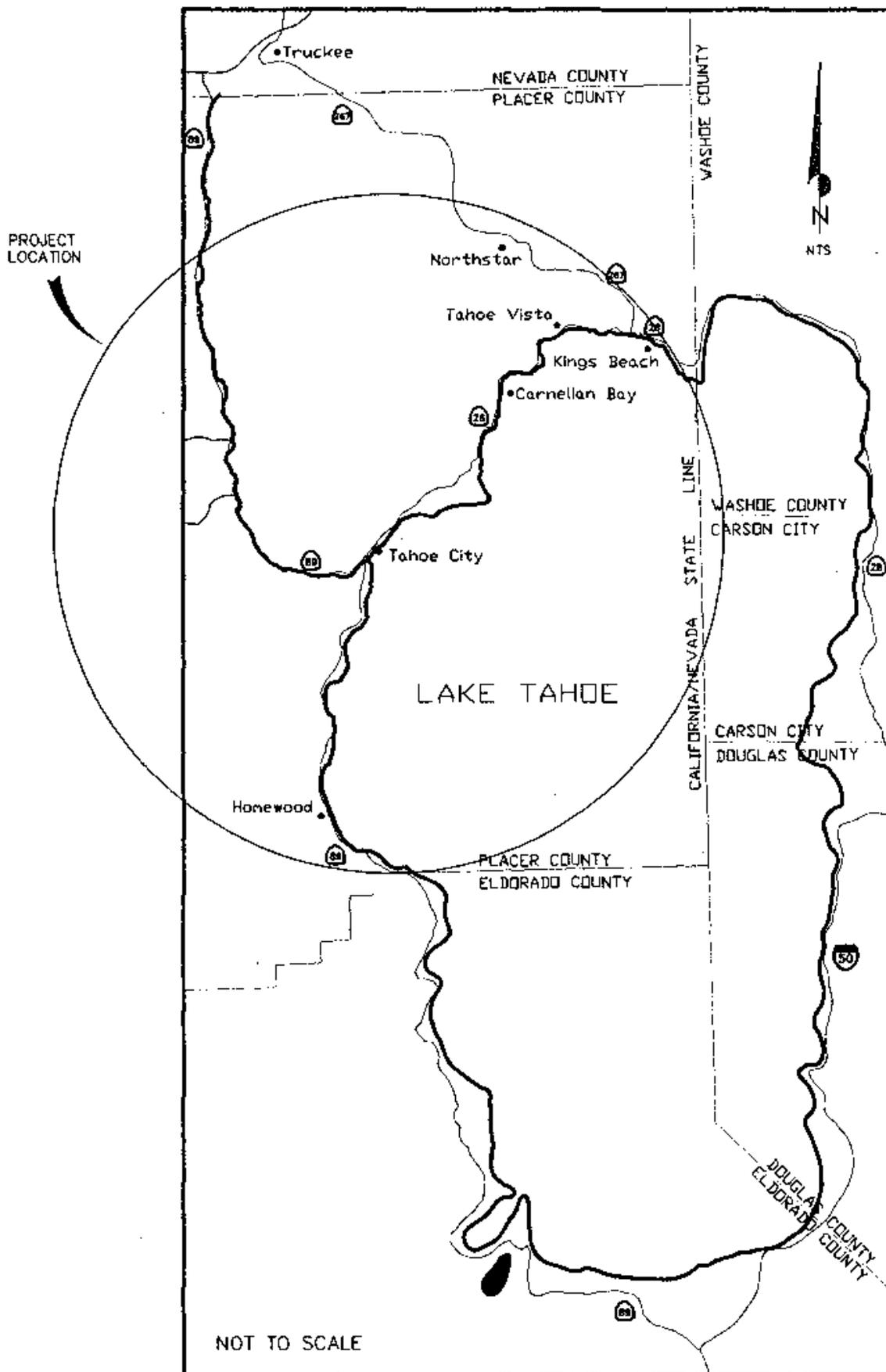
Chairman, Board Of Supervisors

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 the Lake Tahoe Watershed Urban Storm Water Master Planning Agreement between Placer County and the U.S. Arm Corps of Engineers (USACE) to receive services in the amount of \$300,000 by which the USACE will provide planning and design assistance to Placer County for storm water master planning in Lake Tahoe; and authorizes the Director of Public Works or his designee to execute the Agreement and all related documents with County Counsel review and approval.

EXHIBIT A – PROJECT LOCATION MAP

PLACER COUNTY DEPARTMENT OF PUBLIC WORKS
POLLUTANT LOAD REDUCTION STRATEGY



AGREEMENT

TECHNICAL AND DESIGN ASSISTANCE
LAKE TAHOE WATERSHED URBAN STORM WATER MASTER PLANNING

THIS AGREEMENT MADE AND ENTERED INTO THIS _____ day of _____, 2008, BY AND BETWEEN the Department of the Army (hereinafter the "Government"), represented by the District Engineer for Sacramento District, U.S. Army Corps of Engineers, and Placer County (hereinafter the "Non-Federal Sponsor"), represented by the Deputy Director of the Department of Public Works.

WITNESSETH

WHEREAS, the Secretary of the Army is authorized to provide planning, design, and construction assistance, which may be in the form of grants or reimbursements of the Federal share of project costs, for water-related environmental infrastructure and resource protection and development projects in the Lake Tahoe Basin, California and Nevada (hereinafter the "Section 108 Program") pursuant to Section 108 of Division C of the Consolidated Appropriations Act of 2005, Public Law 108-447 (hereinafter "Section 108");

WHEREAS, Section 108 provides that the Secretary of the Army may provide assistance for a water-related environmental infrastructure and resource protection and development project only if the project is publicly owned;

WHEREAS, Section 108 provides that \$25,000,000 in Federal funds are authorized to be appropriated for planning, design, and construction assistance for projects undertaken in the Lake Tahoe Basin pursuant to the Section 108 Program;

WHEREAS, the U.S. Army Engineer, Sacramento District (hereinafter the "District Engineer") has determined that Urban Storm Water Master Planning in the Lake Tahoe Watershed, Nevada and California (hereinafter the "*Project*", as defined in Article I.A. of this Agreement) is eligible for implementation under Section 108;

WHEREAS, Section 108 provides that the Secretary of the Army shall not provide assistance for any water-related environmental infrastructure and resource protection and development projects until each non-Federal sponsor has entered into a written agreement to furnish its required cooperation for the project;

WHEREAS, Section 108 specifies the cost-sharing requirements applicable to the *Project* including that the Secretary of the Army shall afford credit for the reasonable costs of design completed by the non-Federal interest before entering into a written agreement with the Secretary;

WHEREAS, the Non-Federal Sponsor desires to perform certain work (hereinafter the "*non-Federal design work*" as defined in Article I.L. of this Agreement) which is a part of the *Project*;

WHEREAS, Section 102 of the Energy and Water Development Appropriations Act, 2006, Public Law 109-103, provides that credits and reimbursements afforded for all applicable general authorities and under specific project authority shall not exceed \$100,000,000 for all applicable programs and projects in each fiscal year;

WHEREAS, the Government and the Non-Federal Sponsor desire to enter into an agreement (hereinafter the "Agreement") for the provision of design assistance for the *Project*;

WHEREAS, the Government and Non-Federal Sponsor have the full authority and capability to perform as hereinafter set forth and intend to cooperate in cost-sharing and financing of the *Project* in accordance with the terms of this Agreement; and

WHEREAS, the Government and the Non-Federal Sponsor, in connection with this Agreement, desire to foster a partnering strategy and a working relationship between the Government and the Non-Federal Sponsor through a mutually developed formal strategy of commitment and communication embodied herein, which creates an environment where trust and teamwork prevent disputes, foster a cooperative bond between the Government and the Non-Federal Sponsor, and facilitate the successful implementation of the *Project*.

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree as follows:

ARTICLE I
DEFINITIONS

- A. The term "*Project*" shall mean development of an urban storm water project master planning document for the Lake Tahoe Basin as generally described in the Urban Storm Water Master Planning Scope of Work, attached hereto. The term includes the *non-Federal design work* described in paragraph L. of this Article.
- B. The term "*total design costs*" shall mean the sum of all costs incurred by the Non-Federal Sponsor or the Government in accordance with the terms of this Agreement directly related to design of the *Project*. Subject to the provisions of this Agreement, the term shall include, but is not necessarily limited to: the costs of the Non-Federal Sponsor's *pre-Agreement design work* for which the Government affords credit in accordance with Article II.B.3. of this Agreement; the Government's design costs not incurred pursuant to any other agreement for the *Project*; the Government's costs of preparation of environmental compliance documentation in accordance with Article II.A.2. of this Agreement; the Government's costs of identification, survey, and evaluation of historic properties; the costs of the *non-Federal design work* for which the Government affords credit in accordance with Article II.B.4. of this Agreement; the Government's supervision and administration costs; the Non-Federal Sponsor's costs of identification of legal and institutional structures in accordance with Article II.F. of this Agreement not incurred pursuant to any other agreement for the *Project*; the Non-Federal Sponsor's and the Government's costs of participation in the Design Coordination Team in accordance with Article III of this Agreement; the Government's costs of design contract dispute settlements or awards; and the Non-Federal Sponsor's and the Government's costs of audit in accordance with Articles VII.B. and VII.C. of this Agreement. The term does not include any costs for design of *betterments* under Article II.H. of this Agreement; any costs of dispute resolution under Article V of this Agreement; or the Non-Federal Sponsor's costs of negotiating this Agreement.
- C. The term "*financial obligations for design*" shall mean the financial obligations of the Government and credit afforded by the Government for *pre-Agreement design work* and *non-Federal design work* that result or would result in costs that are or would be included in *total design costs*.
- D. The term "*non-Federal proportionate share*" shall mean the ratio of the sum of the credit

afforded by the Government for *pre-Agreement design work* and *non-Federal design work* and the Non-Federal Sponsor's total contribution of funds required by Article II.B.1. of this Agreement to *financial obligations for design*, as projected by the Government.

- E. The term "*period of design*" shall mean the time from the effective date of this Agreement to the date that design of the *Project* is complete, as determined by the Government, or the date that this Agreement is terminated in accordance with Article II.C. or Article X of this Agreement, whichever is earlier.
- F. The term "*betterment*" shall mean a difference in the design of an element of the *Project* that results from the application of standards that the Government determines exceed those that the Government would otherwise apply to the design of that element. The term does not include any design for features not included in the *Project* as defined in paragraph A. of this Article.
- G. The term "*Federal program funds*" shall mean funds provided by a Federal agency, other than the Department of the Army, plus any non-Federal contribution required as a matching share therefor.
- H. The term "*Section 108 Program Limit*" shall mean the amount of Federal funds authorized to be appropriated for the Section 108 Program. As of the effective date of this Agreement, such amount is \$25,000,000.
- I. The term "*fiscal year*" shall mean one year beginning on October 1 and ending on September 30.
- J. The term "*pre-Agreement design work*" shall mean the work performed prior to the effective date of this Agreement by the Non-Federal Sponsor that is directly related to design of the *Project* and that was not performed pursuant to any other agreement for the *Project*.
- K. The term "*Section 102 Limit*" shall mean the annual limit on credits and reimbursements imposed by Section 102 of the Energy and Water Development Appropriations Act, 2006, Public Law 109-103.
- L. The term "*non-Federal design work*" shall mean planning, design, supervision and administration, and other activities associated with design of the *Project* that are performed by the Non-Federal Sponsor after the effective date of this Agreement and after written approval by the District Engineer. The term does not include the design of *betterments*.

ARTICLE II

OBLIGATIONS OF THE GOVERNMENT AND THE NON-FEDERAL SPONSOR

- A. The Government, subject to receiving funds appropriated by the Congress of the United States (hereinafter the "Congress") and using those funds and funds provided by the Non-Federal Sponsor, expeditiously shall design the *Project* except for the *pre-Agreement design work* and *non-Federal design work*, applying those procedures usually applied to Federal projects, in accordance with Federal laws, regulations, and policies. The Non-Federal Sponsor expeditiously shall design the *non-Federal design work* in accordance with applicable Federal laws, regulations, and policies.
 - 1. The Government shall not issue the solicitation for the first design contract for the

Project or commence design of the *Project* using the Government's own forces until the Non-Federal Sponsor has confirmed in writing its willingness to proceed with the *Project*.

2. The Government shall develop and coordinate as required, an Environmental Assessment and Finding of No Significant Impact or an Environmental Impact Statement and Record of Decision, as necessary, to inform the public regarding the environmental impacts of the *Project* in accordance with the National Environmental Policy Act of 1969 (hereinafter "NEPA").
3. The Government shall afford the Non-Federal Sponsor the opportunity to review and comment on the solicitations for all contracts, including relevant scopes of work, prior to the Government's issuance of such solicitations. To the extent possible, the Government shall afford the Non-Federal Sponsor the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Non-Federal Sponsor with notification of a contract modification is not possible prior to execution of the contract modification, the Government shall provide such notification in writing at the earliest date possible. To the extent possible, the Government also shall afford the Non-Federal Sponsor the opportunity to review and comment on all contract claims prior to resolution thereof. The Government shall consider in good faith the comments of the Non-Federal Sponsor, but the contents of solicitations, award of contracts or commencement of design using the Government's own forces, execution of contract modifications, resolution of contract claims, and performance of all work on the *Project*, except for the *non-Federal design work*, shall be exclusively within the control of the Government.
4. At the time the District Engineer furnishes the contractor with the Government's Written Notice of Acceptance of Completed Work for each contract awarded by the Government for the *Project*, the District Engineer shall furnish the Non-Federal Sponsor with a copy thereof.
5. The Non-Federal Sponsor shall afford the Government the opportunity to review and comment on the solicitations for all contracts for the *non-Federal design work*, including relevant scopes of work, prior to the Non-Federal Sponsor's issuance of such solicitations. To the extent possible, the Non-Federal Sponsor shall afford the Government the opportunity to review and comment on all proposed contract modifications, including change orders. In any instance where providing the Government with notification of a contract modification is not possible prior to execution of the contract modification, the Non-Federal Sponsor shall provide such notification in writing at the earliest date possible. To the extent possible, the Non-Federal Sponsor also shall afford the Government the opportunity to review and comment on all contract claims prior to resolution thereof. The Non-Federal Sponsor shall consider in good faith the comments of the Government, but the contents of solicitations, award of contracts or commencement of design using the Non-Federal Sponsor's own forces, execution of contract modifications, resolution of contract claims, and performance of all work on the *non-Federal design work* shall be exclusively within the control of the Non-Federal Sponsor.
6. At the time the Non-Federal Sponsor furnishes a contractor with a notice of acceptance of completed work for each contract awarded by the Non-Federal Sponsor for the *non-Federal design work*, the Non-Federal Sponsor shall furnish the

Government with a copy thereof.

7. Notwithstanding paragraphs A.3. and A.5. of this Article, if the award of any contract for design of the *Project*, or continuation of design of the *Project* using the Government's or the Non-Federal Sponsor's own forces would result in *total design costs* exceeding \$400,000, the Government and the Non-Federal Sponsor agree to defer award of that contract, award of all remaining contracts for design of the *Project*, and continuation of design of the *Project* using the Government's or the Non-Federal Sponsor's own forces until such time as the Government and the Non-Federal Sponsor agree in writing to proceed with further contract awards for the *Project* or the continuation of design of the *Project* using the Government's or the Non-Federal Sponsor's own forces, but in no event shall the award of contracts or the continuation of design of the *Project* using the Government's or the Non-Federal Sponsor's own forces be deferred for more than three years. Notwithstanding this general provision for deferral, the Government may award a contract or contracts, or continue with design of the *Project* using the Government's own forces, after consultation with the Non-Federal Sponsor and after the Assistant Secretary of the Army (Civil Works) makes a written determination that the award of such contract or contracts or continuation of design of the *Project* using the Government's own forces must proceed in order to comply with law or to protect human life or property from imminent and substantial harm.

B. The Non-Federal Sponsor shall contribute 25 percent of *total design costs* in accordance with the provisions of this paragraph.

1. If the Government projects at any time that the value of the Non-Federal Sponsor's contributions under paragraphs B.3., B.4. and F. of this Article and Articles III and VII of this Agreement will be less than the Non-Federal Sponsor's required share of 25 percent of *total design costs*, the Non-Federal Sponsor, in accordance with Article IV.B. of this Agreement, shall provide additional funds in the amount necessary to meet the Non-Federal Sponsor's required share of 25 percent of *total design costs*.
2. If the Government determines at any time that the value of the Non-Federal Sponsor's contributions under paragraphs B.1., B.3., B.4. and F. of this Article and Articles III and VII of this Agreement have exceeded 25 percent of *total design costs*, the Government shall refund or reimburse to the Non-Federal Sponsor any amount in excess of 25 percent of *total design costs*. However, such refund or reimbursement shall be subject to the following conditions:
 - a. The Government, subject to the availability of funds and as limited by the *Section 108 Program Limit*, shall refund or reimburse to the Non-Federal Sponsor the portion of such excess amount that is attributable to the Non-Federal Sponsor's contributions under paragraphs B.1. and F. of this Article and Articles III and VII of this Agreement; and
 - b. Should an unreimbursed portion of such excess amount remain after any refund or reimbursement pursuant to paragraph B.2.a. of this Article, the Government, subject to the availability of funds and as limited by the *Section 108 Program Limit* and the *Section 102 Limit*, shall reimburse the Non-Federal Sponsor for the credit afforded by the Government pursuant to paragraph B.3. of this Article for *pre-Agreement design work* and pursuant to paragraph B.4. of

this Article for *non-Federal design work*, up to the amount of the unreimbursed portion of such excess amount.

3. The Government, subject to the limitations of this paragraph, shall include in *total design costs* and afford credit toward the Non-Federal Sponsor's share of *total design costs* for the reasonable costs incurred by the Non-Federal Sponsor for *pre-Agreement design work* that have not been incurred pursuant to any other agreement for the *Project*. The Non-Federal Sponsor in a timely manner shall provide the Government with such documents as are sufficient to enable the Government to determine the amount of costs to be included in *total design costs* for *pre-Agreement design work*.
 - a. No credit shall be afforded unless and until the Government has certified that the *pre-Agreement design work* is necessary for the *Project*. The actual amount of credit shall be subject to an audit in accordance with Article VII.C. of this Agreement to determine the reasonableness, allocability and allowability of such costs.
 - b. The amount of credit for which the Non-Federal Sponsor may be eligible pursuant to this Agreement is not subject to interest charges, nor is it subject to adjustment to reflect changes in price levels between the time the *pre-Agreement design work* was completed and the time the credit is afforded.
 - c. The Government shall not afford credit for, nor include in *total design costs*, any costs of *pre-Agreement design work* paid by the Non-Federal Sponsor using *Federal program funds* unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is expressly authorized by Federal law.

4. The Government, subject to the limitations of this paragraph, shall include in *total design costs* and afford credit toward the Non-Federal Sponsor's share of *total design costs* for the costs incurred by the Non-Federal Sponsor for *non-Federal design work*. The Non-Federal Sponsor in a timely manner shall provide the Government with such documents as are sufficient to enable the Government to determine the amount of costs to be included in *total design costs* for *non-Federal design work*.
 - a. The Non-Federal Sponsor's cost for the *non-Federal design work* shall be based on actual costs incurred by the Architect-Engineer plus reasonable profit.
 - b. No credit shall be afforded unless and until the Government has certified that the *non-Federal design work* is necessary for the *Project*. The actual amount of credit shall be subject to an audit in accordance with Article VII.C. of this Agreement to determine the reasonableness, allocability and allowability of such costs.
 - c. The amount of credit for which the Non-Federal Sponsor may be eligible pursuant to this Agreement is not subject to interest charges, nor is it subject to adjustment to reflect changes in price levels between the time the *non-Federal design work* is completed and the time the credit is afforded.
 - d. The Government shall not afford credit for, nor include in *total design costs*,

any costs of *non-Federal design work* paid by the Non-Federal Sponsor using *Federal program funds* unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is expressly authorized by Federal law.

- C. Notwithstanding any other provision of this Agreement, Federal financial participation in the *Project* is limited by the following provisions of this paragraph.
1. As of the effective date of this Agreement, \$3,600,000 of Federal funds have been provided by Congress for the Section 108 Program of which \$300,000 is currently projected to be available for the *Project*. The Government makes no commitment to request Congress to provide additional Federal funds for the Section 108 Program or the *Project*. Further, the Government's financial participation in the *Project* is limited to the Federal funds that the Government makes available to the *Project*.
 2. In the event the Government projects that the amount of Federal funds the Government will make available to the *Project* through the then-current *fiscal year*, or the amount of Federal funds the Government will make available for the *Project* through the upcoming *fiscal year*, is not sufficient to meet the Federal share of *total design costs* that the Government projects to be incurred through the then-current or upcoming *fiscal year*, as applicable, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the Government projects that the Federal funds that will have been made available to the *Project* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Project*, future performance under this Agreement shall be suspended and the parties shall proceed in accordance with Article X.B. of this Agreement.
 3. If the Government determines that the total amount of Federal funds provided by Congress for the Section 108 Program has reached the *Section 108 Program Limit*, and the Government projects that the Federal funds the Government will make available to the *Project* within the *Section 108 Program Limit* will not be sufficient to meet the Federal share of *total design costs*, the Government shall notify the Non-Federal Sponsor in writing of such insufficiency of funds and of the date the Government projects that the Federal funds that will have been made available to the *Project* will be exhausted. Upon the exhaustion of Federal funds made available by the Government to the *Project* within the *Section 108 Program Limit*, the parties shall terminate this Agreement and proceed in accordance with Article X.C. of this Agreement.
- D. Upon conclusion of the *period of design*, the Government shall conduct an accounting, in accordance with Article IV.C. of this Agreement, and furnish the results to the Non-Federal Sponsor.
- E. The Non-Federal Sponsor and the Government, in consultation with appropriate Federal and State and Regional officials, shall develop appropriate environmental documentation, engineering plans and specifications, and any other items necessary in accordance with this Agreement.
- F. The Non-Federal Sponsor shall identify such legal and institutional structures as are necessary to ensure the effective long-term operation of the *Project*. The Non-Federal Sponsor shall provide to the Government a description of such legal and institutional

structures. The Non-Federal Sponsor's costs of identification of such legal and institutional structures shall be included in *total design costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article X.C. of this Agreement to determine reasonableness, allocability, and allowability of costs.

- G. The Non-Federal Sponsor shall not use *Federal program funds* to meet any of its obligations for the *Project* under this Agreement unless the Federal agency providing the Federal portion of such funds verifies in writing that expenditure of such funds for such purpose is expressly authorized by Federal law.
- H. The Non-Federal Sponsor may request the Government to include *betterments* in the design of the *Project*, on behalf of the Non-Federal Sponsor. Such requests shall be in writing and shall describe the *betterments* requested to be designed. If in its sole discretion the Government elects to include any such *betterments* or portion thereof in the design of the *Project*, it shall so notify the Non-Federal Sponsor in a writing that sets forth any applicable terms and conditions, which must be consistent with this Agreement. In the event of conflict between such a writing and this Agreement, this Agreement shall control. In the event the Government elects to include any such *betterments*, the Government shall allocate the costs of the *Project* features that include *betterments* between *total design costs* and the costs of the *betterments*. The Non-Federal Sponsor shall be solely responsible for all costs of the *betterments* designed by the Government under this paragraph and shall pay all such costs in accordance with Article IV.D. of this Agreement.

ARTICLE III
DESIGN COORDINATION TEAM

- A. To provide for consistent and effective communication, the Non-Federal Sponsor and the Government, not later than 30 calendar days after the effective date of this Agreement, shall appoint named senior representatives to a Design Coordination Team. Thereafter, the Design Coordination Team shall meet regularly until the end of the *period of design*. The Government's Project Manager and a counterpart named by the Non-Federal Sponsor shall co-chair the Design Coordination Team.
- B. The Government's Project Manager and the Non-Federal Sponsor's counterpart shall keep the Design Coordination Team informed of the progress of design and of significant pending issues and actions, and shall seek the views of the Design Coordination Team on matters that the Design Coordination Team generally oversees.
- C. Until the end of the *period of design*, the Design Coordination Team shall generally oversee the design of the *Project*, including but not necessarily limited to matters related to: design; completion of all necessary environmental coordination and documentation; development of plans and specifications; scheduling; real property and *relocation* requirements for construction of the *Project*; design contract awards and modifications; design contract costs; the Government's cost projections; the performance of *non-Federal design work*; anticipated requirements and needed capabilities for performance of operation, maintenance, repair, rehabilitation, and replacement of the *Project*; and other matters related to design of the *Project*. Oversight of design of the *Project* shall be consistent with a project management plan developed by the Government after consultation with the Non-Federal Sponsor.
- D. Except for the *non-Federal design work*, the Design Coordination Team may make recommendations to the District Engineer on matters related to the *Project* that the Design

Coordination Team generally oversees, including suggestions to avoid potential sources of dispute. The Government in good faith shall consider the recommendations of the Design Coordination Team. The Government, having the legal authority and responsibility for design of the *Project* except for the *non-Federal design work*, has the discretion to accept or reject, in whole or in part, the Design Coordination Team's recommendations. Further, the Design Coordination Team may make recommendations to the Non-Federal Sponsor on matters related to the *non-Federal design work* that the Design Coordination Team generally oversees, including suggestions to avoid potential sources of dispute. The Non-Federal Sponsor in good faith shall consider the recommendations of the Design Coordination Team. The Non-Federal Sponsor, having the legal authority and responsibility for design of the *non-Federal design work*, has the discretion to accept or reject, in whole or in part, the Design Coordination Team's recommendations except as related to compliance with applicable Federal, State, or local laws or regulations as otherwise provided in this Agreement.

- E. The Non-Federal Sponsor's costs of participation in the Design Coordination Team shall be included in *total design costs* and shared in accordance with the provisions of this Agreement, subject to an audit in accordance with Article VII.C. of this Agreement to determine reasonableness, allocability, and allowability of costs. The Government's costs of participation in the Design Coordination Team shall be included in *total design costs* and shared in accordance with the provisions of this Agreement.

ARTICLE IV METHOD OF PAYMENT

- A. In accordance with the provisions of this paragraph, the Government shall maintain current records, and provide to the Non-Federal Sponsor current projections of, costs, financial obligations, contributions provided by the parties, the credit afforded for *pre-Agreement design work*, and the credit afforded for *non-Federal design work*.
1. As of the effective date of this Agreement, *total design costs* are projected to be \$400,000, the Non-Federal Sponsor's contribution of funds required by Article II.B.1. of this Agreement is projected to be \$100,000, the *non-Federal proportionate share* is projected to be 25 percent, the credit to be afforded for *pre-Agreement design work* is projected to be \$10,000, the credit to be afforded for *non-Federal design work* is projected to be \$25,000, and the Government's total financial obligations for *betterments* to be incurred and the Non-Federal Sponsor's contribution of funds for such costs required by Article II.H. of this Agreement are projected to be \$0. These amounts and percentage are estimates subject to adjustment by the Government, after consultation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and the Non-Federal Sponsor.
 2. By June 30, 2008, and by each quarterly anniversary thereof until the conclusion of the *period of design* and resolution of all relevant claims and appeals, the Government shall provide the Non-Federal Sponsor with a report setting forth all contributions provided to date and the current projections of the following: *total design costs*; the Non-Federal Sponsor's total contribution of funds required by Article II.B.1. of this Agreement; the *non-Federal proportionate share*; the total contribution of funds required from the Non-Federal Sponsor for the upcoming contract and upcoming *fiscal year*; the credit to be afforded for *pre-Agreement design work*; the credit to be afforded for *non-Federal design work*; and the Government's total financial obligations for *betterments* incurred and the Non-Federal Sponsor's contribution of funds for such costs required by Article

II.H. of this Agreement.

- B. The Non-Federal Sponsor shall provide the contributions of funds required by Article II.B.1. of this Agreement in accordance with the provisions of this paragraph.
1. Not less than 30 calendar days prior to the scheduled date for issuance of the solicitation for the first contract for design of the *Project* or commencement of design of the *Project* using the Government's own forces, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and the funds the Government determines to be required from the Non-Federal Sponsor, after consideration of any credit the Government projects will be afforded pursuant to Article II.B.3. and Article II.B.4. of this Agreement, to meet: (a) the *non-Federal proportionate share of financial obligations for design* incurred prior to the commencement of the *period of design*; (b) the projected *non-Federal proportionate share of financial obligations for design* to be incurred for such contract; and (c) the projected *non-Federal proportionate share of financial obligations for design* using the Government's own forces through the first quarter. Not later than such scheduled date, the Non-Federal Sponsor shall provide the Government with the full amount of such required funds by delivering a check payable to "FAO, USAED, Sacramento District, L2" to the District Engineer, or verifying to the satisfaction of the Government that the Non-Federal Sponsor has deposited such required funds in an escrow or other account acceptable to the Government, with interest accruing to the Non-Federal Sponsor, or by presenting the Government with an irrevocable letter of credit acceptable to the Government for such required funds, or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.
 2. Thereafter, until the design of the *Project* is complete, the Government shall notify the Non-Federal Sponsor in writing of the funds the Government determines to be required from the Non-Federal Sponsor, and the Non-Federal Sponsor shall provide such funds in accordance with the provisions of this paragraph.
 - a. The Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the scheduled date for issuance of the solicitation for each remaining contract for design of the *Project*, of the funds the Government determines to be required from the Non-Federal Sponsor, after consideration of any credit the Government projects will be afforded pursuant to Article II.B.3. and Article II.B.4. of this Agreement, to meet the projected *non-Federal proportionate share of financial obligations for design* to be incurred for such contract. No later than such scheduled date, the Non-Federal Sponsor shall make the full amount of such required funds available to the Government through any of the payment mechanisms specified in paragraph B.1. of this Article.
 - b. The Government shall notify the Non-Federal Sponsor in writing, no later than 60 calendar days prior to the beginning of each quarter in which the Government projects that it will make *financial obligations for design* of the *Project* using the Government's own forces, of the funds the Government determines to be required from the Non-Federal Sponsor, after consideration of any credit the Government projects will be afforded pursuant to Article II.B.3. and Article II.B.4. of this Agreement, to meet the projected *non-Federal proportionate share of financial obligations for design* using the Government's

own forces for that quarter. No later than 30 calendar days prior to the beginning of that quarter, the Non-Federal Sponsor shall make the full amount of such required funds for that quarter available to the Government through any of the payment mechanisms specified in paragraph B.1. of this Article.

3. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary, after consideration of any credit the Government projects will be afforded pursuant to Article II.B.3. and Article II.B.4. of this Agreement, to cover: (a) the *non-Federal proportionate share of financial obligations for design* incurred prior to the commencement of the *period of design*; and (b) the *non-Federal proportionate share of financial obligations for design as financial obligations for design* are incurred. If at any time the Government determines that additional funds will be needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's share of such financial obligations for the current contract or to cover the Non-Federal Sponsor's share of such financial obligations for work performed using the Government's own forces in the current quarter, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. Within 60 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B.1. of this Article.

C. Upon conclusion of the *period of design* and resolution of all relevant claims and appeals, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. If outstanding relevant claims and appeals prevent a final accounting from being conducted in a timely manner, the Government shall conduct an interim accounting and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals are resolved, the Government shall amend the interim accounting to complete the final accounting and furnish the Non-Federal Sponsor with written notice of the results of such final accounting. The final or interim accounting, as applicable, shall determine *total design costs*, each party's required share thereof, and each party's total contributions thereto as of the date of such accounting.

1. Should the final or interim accounting, as applicable, show that the Non-Federal Sponsor's total required share of *total design costs* exceeds the Non-Federal Sponsor's total contributions provided thereto, the Non-Federal Sponsor, no later than 90 calendar days after receipt of written notice from the Government, shall make a payment to the Government in an amount equal to the difference by delivering a check payable to "FAO, USAED, Sacramento District, L2" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government.
2. Should the final or interim accounting, as applicable, show that the total contributions provided by the Non-Federal Sponsor for *total design costs* exceed the Non-Federal Sponsor's total required share thereof, the Government shall refund or reimburse the excess amount to the Non-Federal Sponsor within 90 calendar days of the date of completion of such accounting. In the event the Non-Federal Sponsor is due a refund or reimbursement and funds are not available to refund or reimburse the excess amount to the Non-Federal Sponsor, the Government shall seek such appropriations as are necessary to make the refund or reimbursement. However, such refund or

reimbursement shall be subject to the following conditions:

- a. The Government, subject to the availability of funds and as limited by the *Section 108 Program Limit*, shall refund or reimburse to the Non-Federal Sponsor the portion of such excess amount that is attributable to the Non-Federal Sponsor's contributions under Article II.B.1., Article II.F., Article III, and Article VII of this Agreement; and
 - b. Should an unreimbursed portion of such excess amount remain after any refund or reimbursement pursuant to paragraph C.2.a. of this Article, the Government, subject to the availability of funds and as limited by the *Section 108 Program Limit* and the *Section 102 Limit*, shall reimburse the Non-Federal Sponsor for the costs included by the Government in *total design costs* for the credit afforded by the Government pursuant to Article II.B.3. and Article II.B.4. of this Agreement for *pre-Agreement design work* and *non-Federal design work*, up to the amount of the unreimbursed portion of such excess amount.
- D. The Non-Federal Sponsor shall provide the contribution of funds required by Article II.H. of this Agreement in accordance with the provisions of this paragraph.
1. Not less than 30 calendar days prior to the scheduled date for the first financial obligation to include *betterments* in the design of the *Project*, the Government shall notify the Non-Federal Sponsor in writing of such scheduled date and of the full amount of funds the Government determines to be required from the Non-Federal Sponsor to cover the costs of such work. No later than 30 calendar days prior to the Government incurring any financial obligation to include *betterments* in the design of the *Project*, the Non-Federal Sponsor shall provide the Government with the full amount of the funds required to cover the costs of such work through any of the payment mechanisms specified in paragraph B.1. of this Article.
 2. The Government shall draw from the funds provided by the Non-Federal Sponsor such sums as the Government deems necessary to cover the Government's financial obligations to include *betterments* in the design of the *Project* as they are incurred. If at any time the Government determines that the Non-Federal Sponsor must provide additional funds to pay for such work, the Government shall notify the Non-Federal Sponsor in writing of the additional funds required and provide an explanation of why additional funds are required. Within 30 calendar days from receipt of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional required funds through any of the payment mechanisms specified in paragraph B.1. of this Article.
 3. At the time the Government conducts the final or interim accounting, as applicable, the Government shall conduct an accounting of the Government's financial obligations incurred to include *betterments* in the design of the *Project* and furnish the Non-Federal Sponsor with written notice of the results of such accounting. If outstanding relevant claims and appeals prevent a final accounting of such work from being conducted in a timely manner, the Government shall conduct an interim accounting of such work and furnish the Non-Federal Sponsor with written notice of the results of such interim accounting. Once all outstanding relevant claims and appeals are resolved, the Government shall amend the interim accounting of such work to complete the final accounting of such work and furnish the Non-Federal Sponsor with

written notice of the results of such final accounting. Such final or interim accounting, as applicable, shall determine the Government's total financial obligations to include *betterments* in the design of the *Project* and the Non-Federal Sponsor's contribution of funds provided thereto as of the date of such accounting.

- a. Should the final or interim accounting, as applicable, show that the total obligations to include *betterments* in the design of the *Project* exceed the total contribution of funds provided by the Non-Federal Sponsor for such work, the Non-Federal Sponsor, no later than 90 calendar days after receipt of written notice from the Government, shall make a payment to the Government in an amount equal to the difference by delivering a check payable to "FAO, USAED, Sacramento District, L2" to the District Engineer or by providing an Electronic Funds Transfer in accordance with procedures established by the Government.
- b. Should the final or interim accounting, as applicable, show that the total contribution of funds provided by the Non-Federal Sponsor to include *betterments* in the design of the *Project* exceeds the total obligations for such work, the Government, subject to the availability of funds, shall refund the excess amount to the Non-Federal Sponsor within 90 calendar days of the completion of such accounting. In the event the Non-Federal Sponsor is due a refund and funds are not available to refund the excess amount to the Non-Federal Sponsor, the Government shall seek such appropriations as are necessary to make the refund.

ARTICLE V DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. The parties each shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

ARTICLE VI HOLD AND SAVE

The Non-Federal Sponsor shall hold and save the Government free from all damages arising from design of the *Project* and design of any *betterments*, except for damages due to the fault or negligence of the Government or its contractors.

ARTICLE VII MAINTENANCE OF RECORDS AND AUDIT

- A. Not later than 60 calendar days after the effective date of this Agreement, the Government and the Non-Federal Sponsor shall develop procedures for keeping books, records, documents, or other evidence pertaining to costs and expenses incurred pursuant to this Agreement. These procedures shall incorporate, and apply as appropriate, the standards for financial management systems set forth in the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments at 32 C.F.R. Section

33.20. The Government and the Non-Federal Sponsor shall maintain such books, records, documents, or other evidence in accordance with these procedures and for a minimum of three years after completion of the accounting for which such books, records, documents, or other evidence were required. To the extent permitted under applicable Federal laws and regulations, the Government and the Non-Federal Sponsor shall each allow the other to inspect such books, records, documents, or other evidence.

- B. In accordance with 32 C.F.R. Section 33.26, the Non-Federal Sponsor is responsible for complying with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as implemented by Office of Management and Budget (OMB) Circular No. A-133 and Department of Defense Directive 7600.10. Upon request of the Non-Federal Sponsor and to the extent permitted under applicable Federal laws and regulations, the Government shall provide to the Non-Federal Sponsor and independent auditors any information necessary to enable an audit of the Non-Federal Sponsor's activities under this Agreement. The costs of any non-Federal audits performed in accordance with this paragraph shall be allocated in accordance with the provisions of OMB Circulars A-87 and A-133, and such costs as are allocated to the *Project* shall be included in *total design costs* and shared in accordance with the provisions of this Agreement.
- C. In accordance with 31 U.S.C. 7503, the Government may conduct audits in addition to any audit that the Non-Federal Sponsor is required to conduct under the Single Audit Act Amendments of 1996. Any such Government audits shall be conducted in accordance with Government Auditing Standards and the cost principles in OMB Circular No. A-87 and other applicable cost principles and regulations. The costs of Government audits performed in accordance with this paragraph shall be included in *total design costs* and shared in accordance with the provisions of this Agreement.

ARTICLE VIII FEDERAL AND STATE LAWS

In the exercise of their respective rights and obligations under this Agreement, the Non-Federal Sponsor and the Government shall comply with all applicable Federal and State laws and regulations, including, but not limited to: Section 601 of the Civil Rights Act of 1964, Public Law 88-352 (42 U.S.C. 2000d) and Department of Defense Directive 5500.11 issued pursuant thereto and Army Regulation 600-7, entitled "Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army".

ARTICLE IX RELATIONSHIP OF PARTIES

- A. In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other.
- B. In the exercise of its rights and obligations under this Agreement, neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights the other party may have to seek relief or redress against that contractor either pursuant to any cause of action that the other party may have or for violation of any law.

ARTICLE X
TERMINATION OR SUSPENSION

- A. If at any time the Non-Federal Sponsor fails to fulfill its obligations under this Agreement, the Assistant Secretary of the Army (Civil Works) shall terminate this Agreement or suspend future performance under this Agreement unless he determines that continuation of work on the *Project* is in the interest of the United States or is necessary in order to satisfy agreements with any other non-Federal interests in connection with the *Project*.
- B. In the event future performance under this Agreement is suspended pursuant to Article II.C. of this Agreement, such suspension shall remain in effect until such time that the Government notifies the Non-Federal Sponsor in writing that sufficient Federal funds are available to meet the Federal share of *total design costs* the Government projects to be incurred through the then-current or upcoming *fiscal year*, or the Government or the Non-Federal Sponsor elects to terminate this Agreement.
- C. In the event that this Agreement is terminated pursuant to this Article or Article II.C. of this Agreement, both parties shall conclude their activities relating to the *Project* and conduct an accounting in accordance with Article IV.C. of this Agreement. To provide for this eventuality, the Government may reserve a percentage of total Federal funds available for the *Project* and an equal percentage of the total funds contributed by the Non-Federal Sponsor in accordance with Article II.B. of this Agreement as a contingency to pay costs of termination, including any costs of resolution of contract claims and contract modifications.
- D. Any termination of this Agreement or suspension of future performance under this Agreement in accordance with this Article or Article II.C. of this Agreement shall not relieve the parties of liability for any obligation previously incurred. Any delinquent payment owed by the Non-Federal Sponsor shall be charged interest at a rate, to be determined by the Secretary of the Treasury, equal to 150 per centum of the average bond equivalent rate of the 13 week Treasury bills auctioned immediately prior to the date on which such payment became delinquent, or auctioned immediately prior to the beginning of each additional 3 month period if the period of delinquency exceeds 3 months.

ARTICLE XI
NOTICES

- A. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or sent by telegram or mailed by first-class, registered, or certified mail, as follows:

If to the Non-Federal Sponsor:

Deputy Director
Placer County
Department of Public Works
10825 Pioneer Trail, Suite 105
Truckee, CA 96161

If to the Government:

District Engineer
U.S. Army Corps of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

- B. A party may change the address to which such communications are to be directed by giving written notice to the other party in the manner provided in this Article.

- C. Any notice, request, demand, or other communication made pursuant to this Article shall be deemed to have been received by the addressee at the earlier of such time as it is actually received or seven calendar days after it is mailed.

ARTICLE XII
CONFIDENTIALITY

To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

ARTICLE XIII
THIRD PARTY RIGHTS, BENEFITS, OR LIABILITIES

Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Engineer for Sacramento District, U.S. Army Corps of Engineers.

DEPARTMENT OF THE ARMY

PLACER COUNTY

By: _____
Thomas C. Chapman
Colonel, Corps of Engineers
District Engineer

By: _____
Peter R. Kraatz
Deputy Director
Department of Public Works

Date: _____

Date: _____

Attachment:
Urban Storm Water Master Planning Scope of Work

CERTIFICATE OF AUTHORITY

I, CHRISTIANA DARLINGTON, Esq., do hereby certify that I am a legal officer of Placer County, California, that the Placer County is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the Placer County in connection with Urban Storm Water Master Planning in the Lake Tahoe Watershed, Nevada and California , and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed this Agreement on behalf of the Placer County have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this _____

day of _____, 2008 .

Christiana Darlington, Esq.
Placer County Counsel

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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.
- (2) If any funds other than Federal 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, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, and U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Peter R. Kraatz
Deputy Director
Placer County Department of Public Works

Date: _____

NON-FEDERAL SPONSOR'S
SELF CERTIFICATION OF FINANCIAL CAPABILITY

I, CYNTHIA TAYLOR, do hereby certify that I am the Senior Administrative Services Officer of the Placer County Department of Public Works, California (the Non-Federal Sponsor); that I am aware of the financial obligations of the Non-Federal Sponsor for the project titled Section 108 Lake Tahoe Watershed Urban Storm Water Master Planning Design Agreement, Lake Tahoe Basin, California; and that the Non-Federal sponsor has the financial capability to satisfy the Non-Federal Sponsor's obligations under the Section 108 Project Cooperation Agreement between the U.S. Army Corps of Engineers and the Placer County, California.

IN WITNESS WHEREOF, I have made and executed this certification this _____
day of _____, 2008 .

Cynthia Taylor
Senior Administrative Services Officer
Placer County Department of Public Works

SCOPE OF WORK

Urban Storm Water Master Planning Lake Tahoe Basin (California and Nevada) Section 108 Project Agreement

Section 108 Non-Federal Partner: Placer County
Other Identified Key Partners: Tahoe City Public Utilities District and North Tahoe Public Utility District.

I. PROJECT OVERVIEW

Lake Tahoe is designated an Outstanding National Resource Water by the U.S. Environmental Protection Agency (EPA). However, monitoring over the more than thirty years beginning in 1967 has indicated that Lake Tahoe's water quality continues to decline about one foot per year on average. This has led to the lake also being designated an "impaired water" by the EPA-administered Clean Water Act for the pollutants fine sediment, nitrogen, and phosphorus. The impaired water designation requires an analysis of total maximum daily load (TMDL) that the water body can naturally assimilate for the identified pollutants and be restored to an "unimpaired" state.

Numerous studies, including the Lake Tahoe Watershed Assessment (2000) by the U.S. Forest Service (USFS), Tahoe Regional Planning Agency, the University of California, Davis Tahoe Research Group (TRG), the University of Nevada, Reno (UNR), and the Desert Research Institute (DRI) has documented the impact of human activities in disturbing natural processes and therefore accelerating nutrient and sediment delivery to the Lake. Further, the studies indicate that the ecological integrity of Lake Tahoe will continue to degrade unless restoration activities occur at a faster rate. These early studies did not quantify pollutant loading reduction by type, origin, or location.

The States of California and Nevada have conducted the first two phases of the Total Maximum Daily Load (TMDL) studies to quantify pollutant loading reduction by type, origin, or location. The initial results indicate that an approximate 50 percent reduction in one or a combination of fine sediment or nutrient loading will return clarity levels to the historical 100 foot depth within the next twenty-year horizon. The next phase of the TMDL will allocate which of the load origins and geographic areas will be responsible for these load reductions.

It becomes apparent that is the TMDL attainment is predicated upon 50 percent reduction from multiple source areas (origins) and geographic locations. It just as quickly becomes apparent that not all source areas and geographic locations are amenable to pollutant load reduction. For instance, a reduction in some forms of aerial deposition, groundwater contribution, or stream loading at a rate of 30 percent to 40 percent is not very probable. That would then indicate that a disproportionate reduction must be assumed from the source areas and geographic locations that are amenable to reduction to meet the overall 50 percent reduction goal. Urban storm water master planning will likely be seen by the TMDL allocation process as the best option to successfully achieve TMDL goals.

This disproportionate reduction is not a dire as it appears since the TMDL Lake Tahoe Clarity Model estimates that approximately 72 percent of the fine sediments (particles less than 20 micrometers in size) and 38 percent of the phosphorous which contribute to the decline in lake

clarity come from urbanized areas. These urban areas within the sub-watersheds could be the greatest opportunity for pollutant reductions for both quantity and efficiency.

II. CALIFORNIA REGULATORY REQUIREMENTS

The Lahontan Regional Board adopted Board Order No. R6T-2005-0026 on October 12, 2005 to regulate storm water discharges from the California municipalities within the Lake Tahoe Basin. This Order serves as a National Pollutant Discharge Elimination System Phase I Storm Water Permit (NPDES Permit or Permit), as required by the Federal Clean Water Act. Placer County, the City of South Lake Tahoe and El Dorado County are co-permittees under the NPDES Permit.

Section IX of the Permit, Impaired Water Bodies/TMDL, requires each permittee to develop and submit a pollutant load reduction (PLR) strategy plan by May 1, 2007, to include:

"at a minimum, steps to 1) identify and map every storm water outfall within the jurisdiction and calculate the drainage area for each outfall; 2) develop a method to prioritize erosion control and storm water treatment projects based on the estimated pollutant loads at each outfall; and 3) implement projects based on identified priorities."

The following submittals are also required by the Permit, in addition to the requirement to develop the PLR strategy plan:

- a Storm Water Management Plan (SWMP) for 2006-2010 is to be completed and submitted to the Regional Board by July 15, 2006, thereafter to be annually updated as needed; and
- An annual report is to be developed and submitted, no later than March 15 of each year, beginning in 2006, which shall describe program activities for each calendar year, specifically those related to (1) facility inspections; (2) traction abrasive and deicing material; and (3) outfall inventory.

The first Monitoring and Reporting Program Annual Report, for the January 1 through December 31, 2005 program year, was submitted March 15, 2006. The County's proposed schedule for completion of PLR strategy tasks was outlined in Table 1.

Table 1 – Outfall Inventory Development Schedule, Proposed March 15, 2006

| Areas to be Inventoried | Year |
|--------------------------------------|--------------------------|
| Stateline at Brockway to Tahoe Vista | Summer 2006 |
| Tahoe Vista to Tahoe City | Summer 2007 |
| Tahoe City to Tahoe Pines | Summer 2008 |
| Tahoe Pines to Tahoma at County Line | Summer 2009 |
| Final Database Production | Fall 2009 to Spring 2010 |

The County received a Notice of Violation (NOV) from the Regional Board on May 4, 2006; the NOV cited the 2005 Annual Monitoring Report (AMR) as incomplete, and requested additional information. In reference to the segment of the AMR pertaining to the outfall inventory, the Regional Board acknowledged and accepted the proposed schedule with the statement:

"The submitted information regarding Placer County's plan to complete the Outfall Inventory meets the 2005 annual reporting requirements of the

Municipal Permit. Staff look forward to reviewing the County's progress on this important program in future reports."

The County's inaugural SWMP was submitted July 15, 2006. Section 5-N committed that the County would prepare a PLR strategy report, in which the requirements outlined in Section IX of the Permit would be addressed.

The 2006 Annual Monitoring Report was submitted March 15, 2007, in which the status of the outfall inventory was updated, as shown in Table 2. The SWMP program progress report was submitted May 1, 2007, in which the updated schedule shown in Table 2 was reiterated.

Table 2 – Outfall Inventory Development Schedule, Updated March 15, 2007

| Areas to be Inventoried | Year |
|--------------------------------------|--|
| Stateline at Brockway to Tahoe Vista | Summer 2006 – 90 percent completed, Summer 2006 |
| Tahoe Vista to Tahoe City | Summer 2007 -- 20 percent completed, Summer 2006 |
| Tahoe City to Tahoe Pines | Summer 2008 |
| Tahoe Pines to Tahoma at County Line | Summer 2009 |
| Final Database Production | Fall 2009 to Spring 2010 |

III. PROJECT OBJECTIVE

The objective of this effort, therefore, is to investigate means at a program level to reduce urban storm water pollutant load from the Placer County jurisdictional area that drains in to Lake Tahoe.

This objective will be reached by the following elements of work.

IV. ELEMENTS OF WORK

Element 1 – Outfall Mapping, Watershed Delineation and Data Transfer

Map all major storm water outfalls and delineate all major watersheds (contributing drainage areas) to each mapped outfall. In addition, land ownership, land use and topographic data compilation and watershed area quantification will be performed. Data will be collected and transmitted into GIS software for use in subsequent elements of this work scope. This effort is being performed by Placer County using State of California grant funding in the amount of \$125,000.

Element 2 - Inventory of Existing EIP BMP Installations

The Lake Tahoe basin initiated an aggressive program of environmental restoration a decade ago called the Environmental Improvement Program (EIP). EIP efforts to implement best management practices (BMP) were undertaken by a myriad of implementers. The Water Quality Project Inventory (Inventory) was completed using Federal funds. It is indicated as a zero cost element in the project description to provide context of completeness and consists of computer based GIS layers that include a database of all public water quality BMPs implemented within the Lake Tahoe Basin and GIS maps that show the locations of all public water quality projects containing the BMPs. This study does not look at the connectivity or the effectiveness of the installed systems which will be performed under Element 3, though not for the entire BMP

mapped area. Placer County has BMP database information to provide to ensure the inventory is complete. Administrative costs to provide this information are covered under Element 1.

Element 3 - Conduct Sub-Watershed Drainage Studies:

Analyze the drainage areas, including the interconnectivity of BMP catchments to establish the relationship of the urban and non-urban components of the watershed and defines the overall run-on and run-off characteristics. Specifically, this effort needs to be consistent with other efforts in modeling runoff as well as be considered acceptable by scientific peers. This element would:

- Compile existing drainage data to inform land use decisions and guide recommendations for capital improvements in the area's drainage infrastructure.
- Compile existing drainage data to inform decisions related to water quality planning as required and/or recommended by Lahontan.
- Provide a single reference for drainage information that serves the best interests of the area's residents, through current use by stormwater implementers and private developers, and for the eventual transfer to basin-wide application.
- Cross-reference to the extent practicable other basin efforts in modeling runoff to estimate pollutant loading.

The cost for Element 3 is estimated at \$50,000.

Element 4 - Analysis of Geographic Origin of Pollutant Loads/Treatment Areas

Provide semi-quantified analysis of geographic origin of pollutant loads and the significance of that loading by sub-watershed in relation to entire basin TMDL, the effectiveness of existing BMPs on that sub-watershed load including relative connectivity, and whether or not the sub-watershed is geographically amenable to advance treatment options. The cost for Element 4 is estimated at \$50,000.

Element 5 - Coordination with TRPA Study

Collaborate and align, where possible, a study similar in nature to this effort, though more thinly focused and resourced, at Kings Beach, Placer County, CA. The TRPA study being conducted by Northwest Hydraulic Consultants and Geosyntec includes advanced storm water treatment options (pump and treat) in a feasibility study of effectiveness in reducing pollutant loads including: (1) selection of pump and treat technologies; (2) development of general collection/treatment configurations and operational requirements; (3) identification of potential sites amenable to installation; (4) evaluation of feasibility of implementation and use of pump and treat technologies. The cost for Element 5 is estimated at \$50,000.

Element 6 - Development of Conceptual Technical Alternatives

Identify and screen technological alternatives using anticipated project locations determined in Element 5 on the basis of ability to meet the project's goals. Other alternatives will be considered for effectiveness including source control, hydrologic control and operations (i.e., increased BMP O&M frequency and modifying sweeping/traction sand operations/materials). Alternatives carried forward to the subsequent step will then be evaluated using engineering,

amenability, land capability, geographic analysis, public/political acceptability, financial feasibility and environmental criteria. The cost for Element 6 is estimated at \$100,000.

Element 7 - Develop 10-year EIP Work Plan

- Develop a plan for operations, maintenance and regular inspections of currently installed systems.
- Identify feasible, applicable, achievable and sustainable financing options.
- Seek continued cooperation and commitment among multiple agencies and project implementers.
- Identify innovative technological retrofits of current systems for moderately advanced interim treatment options.
- Develop new technologies for advanced treatment to meet future TMDL requirements.
- Focus program/project evaluation and performance review for adaptive, progressive achievement of long-term goals.
- Provide list of water quality improvement projects organized by priority with the highest priority projects providing the highest TMDL reduction.

The cost for Element 7 is estimated at \$50,000.

Element 8 – Final Products

The results of all element efforts will be prepared in a final documentation format that can be used to guide future EIP water quality project efforts by Placer County, facilitate compliance with Lahontan regulatory requirements, and represent a planning tool that can be shared with other project implementers in the Tahoe basin.

V. SCHEDULE AND BUDGET

Placer County and the Department of the Army are considered the "parties" referred to hereafter.

The County anticipates that tasks of Element 1 to be performed by Placer County at a total cost of \$125,000 will be completed August 31, 2008.

Elements 2 through 8 will be performed by the Department of the Army at a total cost of \$300,000 with task products to be completed over a one-year period to occur between July 2008 and July 2009.

VI. CONSULTANT STAFFING

In the event there is a need by the parties to substitute key personnel and consultant staff for project management or element task efforts, the parties shall substitute personnel only after submitting resumes and obtaining specific written approval by each other.

VII. OTHER

It shall be the responsibility of the parties to resolve any errors in the study, which are identified during construction at no additional cost to each other. Consultants shall notify the parties of any errors that are a result of incorrect field data provided by the County.



PLACER COUNTY
DEPARTMENT OF PUBLIC WORKS

Ken Grehm, Director
Robert Blaser, Assistant Director
Peter Kraatz, Deputy Director

April 24, 2008

Colonel Thomas C. Chapman
District Engineer
Sacramento District, Corps of Engineers
1325 J Street
Sacramento, CA 95814

Regarding: REQUEST FOR ASSISTANCE UNDER ENERGY AND WATER DEVELOPMENT
APPROPRIATION ACT (EWDA) 05 SECTION 108 LAKE TAHOE RESTORATION

Dear Colonel Chapman:

This letter conveys the intent of Placer County, California, to pursue a cost sharing agreement with the U.S. Army Corps of Engineers pursuant to Section 108, Division C (Energy and Water Development Appropriation Act) of the Consolidated Appropriations Act of 2005 (118 Statutes 2809, Public Law 108-447). The purpose of such agreement would be to provide technical assistance in the development of storm water master planning products for those portions of Placer County in the Lake Tahoe Basin. This effort is part of the overall achievement in the Lake Tahoe Basin of environmental threshold carrying capacities especially water quality.

We understand that a non-Federal sponsor will be responsible for 25 percent of the project cost and that the non-Federal share can be provided entirely in cash or a combination of cash and work in lieu of cash. We understand that this letter of intent does not commit Placer County or its partner agencies to proceed with the project. Final agreement to participate in this project and to serve as a non-Federal sponsor is contingent upon conditions imposed by the final cost sharing agreement and timeliness of agreement execution.

We look forward to working with the Corps of Engineers on this project. Please contact me at (530) 581-6230 if you need additional information. Thank you!

Respectfully submitted,

PETER R. KRAATZ
Deputy Director

cc: Phillip Brozek, Tahoe Basin Program Manager, Sacramento District, Corps of Engineers

