

MEMORANDUM
OFFICE OF THE
COUNTY EXECUTIVE
COUNTY OF PLACER

TO: Honorable Board of Supervisors

FROM: Thomas M. Miller, County Executive Officer

BY: Leslie Hobson, Senior Management Analyst *L. Hobson*

DATE: August 4, 2009

SUBJECT: Resource Conservation District FY 2009-2010 Agreement

ACTION REQUESTED:

Authorize the Chairman of the Board of Supervisors to sign the attached annual agreement with the Resource Conservation District (RCD) in the amount of \$30,000. RCD will provide assistance to the County with the stormwater tasks mandated by the National Pollutant Discharge Elimination Program (NPDES), help prevent soil erosion and control sediment, and promote agriculture.

BACKGROUND

For over twenty years Placer County has contracted with the RCD for assistance in resolving natural resource related issues. Examples of past activities include: coordination of resource management planning groups, the development of recommendations for erosion and sedimentation control, management of the proliferation of an invasive weed (Red Sesbania) in the Dry Creek watershed, and numerous other tasks to assist the county. Last year's agreement with RCD totaled \$70,320.

For Fiscal Year 2009-2010, the RCD will continue efforts related to protection of watersheds in Placer County and the promotion of agriculture. Specifically, RCD will provide program assistance to the County's NPDES program under the direction of the Department of Public Works. Tasks include: construction site pollution management support and enforcement of non-stormwater discharges, training of both county staff and members of the construction industry regarding storm water BMP's. Finally, RCD will organize the annual Agricultural tour with assistance from other agencies.

Environmental Impact

This project will not have significant environmental impact and is categorically exempt from CEQA (Section 15306, CEQA Guidelines).

FISCAL IMPACT

Sufficient funds are available in the FY 2009-2010 budget to accommodate this request in the amount of \$30,000 which is significantly reduced from last year.

COUNTY OF PLACER
AND
PLACER COUNTY RESOURCE CONSERVATION DISTRICT
ANNUAL COOPERATIVE AGREEMENT
FISCAL YEAR 2009-2010

This Agreement is between the COUNTY OF PLACER, hereinafter referred to as COUNTY, and PLACER COUNTY RESOURCE CONSERVATION DISTRICT, hereinafter referred to as DISTRICT.

WHEREAS, the COUNTY and the DISTRICT have entered into a Memorandum of Understanding that calls for the preparation of a Joint Annual Work plan and Annual Cooperative Agreement for the purpose of accomplishing shared objectives; and

WHEREAS, the Annual Cooperative Agreement is necessary to provide a basis for the mutual exchange of services and funding between the COUNTY and the DISTRICT.

THEREFORE, BE IT RESOLVED that the COUNTY AND THE DISTRICT establishes an Annual Cooperative Agreement as follows:

I. JOINT ANNUAL WORK PLAN

The COUNTY and the DISTRICT have prepared a Joint Annual Work plan attached hereto as Exhibit 1, and incorporated by reference.

II. THE DISTRICT WILL:

(a) Cooperate with the COUNTY in those program areas where COUNTY funds are not requested to pay the cost of DISTRICT services and participation.

(b) Provide those services set forth in Exhibit 1. It is mutually understood by DISTRICT and COUNTY that DISTRICT will, if requested by the County, provide greater definition of the work to be performed and the products to be produced prior to the commencement of services in the program areas specified above.

(c) Upon receipt of written requests for service, DISTRICT shall provide such specific technical assistance as may be requested by COUNTY'S departments relating to vegetation, soil, water, and related resource management questions as they may arise from the COUNTY'S land use development regulation programs, such as subdivision, grading and land leveling. The specific terms of the request for assistance by the requesting county department shall determine the nature of the services to be provided by the DISTRICT and the time within which such services must be rendered. It is mutually understood that the DISTRICT shall have a reasonable length of time to provide such services to the requesting county department. It is mutually understood that the level of DISTRICT manpower may vary depending upon the allocation of personnel necessary to respond to requests for technical assistance from the COUNTY. It is mutually understood that the requesting county department shall have the discretion to take action on any such land use proposal whether or not DISTRICT has completed the preparation of its report, and irrespective of the conclusions or recommendations of any completed DISTRICT report.

III. THE COUNTY WILL:

(a) Pay the DISTRICT the amount of \$30,000.00 for the services provided pursuant to Paragraph II, Subparagraph (b), of this Agreement. Payment shall be in the manner specified in Section V of this Agreement. This payment obligation of the COUNTY for assistance provided by the DISTRICT shall be determined based upon the amount of various DISTRICT personnel time expended to respond to requests for assistance from the COUNTY, at the billing rates shown in Exhibit II, plus overhead. However, in no event shall the COUNTY pay the DISTRICT more than \$63,780.00 for such aid and assistance.

(b) Identify those COUNTY officials authorized to request services from the DISTRICT, and establish those internal COUNTY procedures necessary to ensure that DISTRICT services are allocated between COUNTY programs in a manner consistent with COUNTY priorities and this agreement.

(c) Consider the recommendations and information submitted to the COUNTY by the DISTRICT.

(d) Provide in the COUNTY Fiscal Year 2009-2010 budget an amount not less than \$30,000.00 for the purpose of establishing the means whereby the COUNTY may reimburse the DISTRICT for the cost of DISTRICT services provided pursuant to this Agreement.

IV. WORK PLAN CHANGES DURING FISCAL YEAR:

Areas of cooperation and the scope of work conducted by the DISTRICT are established by the Joint Annual Work plan. Joint annual work plan changes made during the course of the fiscal year will be accomplished as follows:

(a) The agency initiating the change will do so in writing, and will describe in detail any necessary program area, task product, or funding modification necessary to accomplish the proposed change.

(b) Work plan changes that do not significantly modify the allocation of manpower or skills, and which do not increase or decrease the level of funding provided to the DISTRICT during the fiscal year and re-allocation between tasks may be effectuated by the written consent of the County Administrator and District Manager. Work plan changes that may otherwise be properly accomplished by administrative action shall be submitted for review and approval to the governing board of both agencies at the request of either the COUNTY or the DISTRICT.

(c) Work plan changes that would require an increase or decrease in the level of funding to the DISTRICT from the COUNTY, or which would require a significant change in the allocation of manpower or priorities shall be only with the consent of the governing boards of both agencies.

(d) The governing board of each agency shall be notified promptly of any work plan changes accomplished by administration.

V. FUND DISBURSEMENTS:

(a) The DISTRICT shall prepare and submit to the COUNTY a monthly statement of the cost of providing services pursuant to this Agreement and request the transmittal to the DISTRICT of the amount stated.

(b) Within a reasonable time from the receipt of the DISTRICT statement and fund transmittal request, the COUNTY will disburse the amount requested.

(c) The DISTRICT shall not request, nor shall the COUNTY disburse, more than \$30,000.00 for services rendered, unless additional services are requested by the COUNTY and approved by the DISTRICT.

(d) The DISTRICT will not request funds in excess of the actual costs to The DISTRICT of providing services to the county. Actual costs will include direct costs (e.g. office supplies or travel), wages, wage-related benefits, and overhead attributable to providing services to the COUNTY. Overhead will be calculated in a manner consistent with acceptable accounting practices.

VI. HOLD HARMLESS AND INDEMNIFICATION AGREEMENT:

The DISTRICT hereby agrees to protect, defend, indemnify, and hold PLACER COUNTY free and harmless from any and all losses, claims, liens, demands, and causes of action of every kind and character including, but not limited to, the amounts of judgments, penalties, interest, court costs, legal fees, and all other expenses incurred by PLACER COUNTY arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of the COUNTY) and without limitation by enumeration, all other claims or demands of every character occurring or in any way incident to, in connection with or arising directly or indirectly out of, the contract or agreement. DISTRICT agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the DISTRICT. DISTRICT also agrees to bear all other costs and expenses related thereto, even if the claim or claims alleged are groundless, false, or fraudulent. This provision is not intended to create any cause of action in favor of any third party against DISTRICT or the COUNTY or to enlarge in any way the DISTRICT'S liability but is intended solely to provide for indemnification of PLACER COUNTY from liability for damages or injuries to third persons or property arising from DISTRICT'S performance pursuant to this contract of agreement. As used above, the term PLACER COUNTY means Placer County or its officers, agents, employees, and volunteers.

VII. INSURANCE:

DISTRICT will file with COUNTY concurrently herewith a Certificate of Insurance, in companies acceptable to COUNTY, with a Best's Rating of no less than A: VII showing:

(a) WORKERS' COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:

Workers' Compensation Insurance will be provided as required by any applicable law or regulation. Employer's liability insurance will 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 DISTRICT'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 will be included for such injuries or claims.

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

Cancellation Notice: - "This policy will not be canceled or materially changed without first giving thirty (30) days prior written notice to the County of Placer."

DISTRICT will require all subcontractors to maintain adequate Workers' Compensation insurance. Certificates of Workers' Compensation will be filed forthwith with the County upon demand.

(b) GENERAL LIABILITY INSURANCE:

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

- (1) Contractual liability insuring the obligations assumed by DISTRICT in this Agreement.
- (2) Products liability and completed operations.
- (3) Broad form property damage (including completed operations.)

B. One of the following forms is required:

- (1) Comprehensive General Liability;
- (2) Commercial General Liability (Occurrence); or
- (3) Commercial General Liability (Claims Made).

C. If DISTRICT carries a Comprehensive General Liability policy, the limits of liability will 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 (\$1,000,000) aggregate

D. If DISTRICT carries a Commercial General Liability (Occurrence) policy:

- (1) The limits of liability will 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 (\$1,000,000) 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 will be two million dollars (\$2,000,000).

E. Special Claims Made Policy Form Provisions:

DISTRICT will not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of COUNTY, which consent, if given, will be subject to the following conditions:

- (1) The limits of liability will 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 (\$1,000,000) General Aggregate
- (2) The insurance coverage provided by DISTRICT will contain language providing coverage up to six (6) months following the completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims-made policy.

F. Endorsements:

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

- (1) "The County of Placer, its 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 the DISTRICT, 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 and no insurance held or owned by the County of Placer will be called upon to contribute to a loss."
- (3) "This policy will not be canceled or materially changed without first giving thirty (30) days' prior written notice to the County of Placer."

(c) PROFESSIONAL LIABILITY INSURANCE (ERRORS & OMISSIONS):

- A. Professional Liability Insurance for Errors and Omissions coverage in the amount of not less than one million dollars (\$1,000,000) combined single limit for each occurrence and one million dollars (\$1,000,000) aggregate.

- B. If Consultant sub-contracts in support of Consultant's work provided for in the agreement, Professional Liability Insurance for Errors shall be provided by the sub contractor in an amount not less than one million dollars (\$1,000,000) in aggregate.
- C. The insurance coverage provided by the consultant shall contain language providing coverage up to six (6) months following completion of the contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a claims made policy.

(d) AUTOMOBILE LIABILITY INSURANCE

- A. Automobile Liability insurance covering bodily injury and property damage in an amount no less than one million dollars (\$1,000,000) combined single limit for each occurrence.
- B. Covered vehicles should include owned, non-owned, and hired automobiles/trucks.

VII EFFECTIVE DATE, MODIFICATION, AND TERMINATION:

This Agreement shall be deemed effective on July 1, 2009, when executed by an authorized representative of both agencies. The Agreement may be modified from time to time in writing with consent of the governing board of the DISTRICT and COUNTY. This Agreement shall expire June 30, 2010, unless modification includes programs which require tasks to be completed in the following fiscal year. The County may terminate performance of work under this agreement upon 30 days written notice. Any termination shall be effected by written notice to the DISTRICT, either hand-delivered to the DISTRICT or sent certified mail, return receipt requested. The notice of termination shall specify the effective date of termination. Upon receipt of notice of termination, and except as otherwise directed in the notice, the DISTRICT shall:

- a. Stop work on the date specified in the notice,
- b. Place no further orders or enter into any further subcontracts of materials, services or facilities except as necessary to complete work under the agreement up to effective date of termination;
- c. Terminate all orders and subcontracts;
- d. Promptly take all other reasonable and feasible steps to minimize any additional cost, loss, or expenditure associated with work terminated, including, but not limited to reasonable

settlement of all outstanding liability and claims arising out of termination of orders and subcontracts,

e. Deliver or make available to the County all data, drawings, specifications, reports, estimates, summaries, and such information and material as may have been accumulated by the DISTRICT under this agreement, whether completed, partially completed, or in progress.

In the event of termination, an equitable adjustment in the price provided for in this agreement shall be made. Such adjustment shall include reasonable compensation for all services rendered, materials supplied, and expenses incurred pursuant to this agreement prior to the effective date of termination.

DATED: _____

DATED: 7/21/2009

COUNTY OF PLACER

PLACER COUNTY RESOURCE
CONSERVATION DISTRICT

By: _____
Chairman, Board of Supervisors

By: Thomas Wehr
Chairman, RCD Board of Directors

Approved as to form

By: _____
Placer County Counsel

EXHIBIT I

PLACER COUNTY RESOURCE CONSERVATION DISTRICT/PLACER COUNTY
JOINT ANNUAL WORK PROGRAM

FISCAL YEAR 2009/2010

Under the terms of the Placer County Resource Conservation District/Placer County (DISTRICT/COUNTY) Annual Cooperative Agreement for the fiscal year 2007-2008, the DISTRICT will provide aid and assistance to the COUNTY on a time and materials basis.

The overall goal of this agreement is for the DISTRICT to respond in a timely manner to variable requests from the COUNTY for assistance in supporting mutual objectives of the COUNTY and the DISTRICT. Mutual objectives include: the promotion of agriculture, enhancement of Placer County's water-course health, providing Placer County's staff and residents updated information that will reduce the threat of wildfire, the reduction of soil erosion, sediment deposition, and improvements to storm water quality.

The County's objectives will be addressed in the following 2 tasks:

- B. General Assistance to the County Executive Officer.
- C. Assist the COUNTY with National Pollutant Discharge Elimination System (NPDES) requirements.

Task 1. General Assistance to the County Executive Officer \$8,800.00

This task includes the promotion of agriculture in Placer County.

Organize Agricultural Tour **\$8,800.00**

Organize the annual Agricultural tour with assistance from Placer County Water Agency (PCWA), Nevada Irrigation District (NIID), University of California Cooperative Extension Service (UCCE), High Sierra Resource Conservation & Development Council (HSRC&D), Placer County Farm Bureau, the COUNTY, and others. This task is expected take up to 110 hours and will be carried out by the DISTRICT Resource Management Planner (\$8,800.00)

Task 2. – Assist COUNTY with National Pollutant Discharge Elimination System (NPDES) requirements **\$21,200.00**

This task includes the prevention of soil erosion, the reduction of water quality and the improvement of stormwater quality.

The DISTRICT retains a Certified Professional in Erosion and Sediment Control (CPESC) specializing in issues relating to erosion, sediment, and storm Water. The DISTRICT will help the COUNTY achieve Placer County National Pollution Discharge Elimination System requirements by providing general technical assistance as requested.

Task 2a. Construction site pollution management support and enforcement of non-Stormwater discharges **\$10,600.00**

The DISTRICT has a Certified Professional in Erosion and Sediment Control (CPESC) on staff that can provide on-site support to County staff in the areas erosion control, sediment control, related issues relating to construction sites.

Tasks may include, but not be limited to, site visits, inspection of BMP's, evaluation of Best Management Practice effectiveness, preparation of written recommendations, participation in meetings, and other general support to COUNTY staff related to protection of water quality. Visit sites where non-Stormwater complaints are made (when requested by the COUNTY), determine appropriate follow up action, and provide information necessary for the COUNTY to maintain an accurate database of complaints, actions, and results. Specific tasks to be performed shall be determined in consultation with DPW-NPDES staff. Inspections could occur in the Truckee area, the Tahoe Basin, and the "western slope" area of Placer County.

This task is expected take up to **132 hours** and will be carried out by the DISTRICT Resource Management Planner. (\$10,600)

Task 2b. Construction industry training (including inspection staff) **\$10,600.00**

Placer County's three (3) water quality permits require active control of construction site activities to protect water quality. An effective strategy is to educate contractors and trade professionals on a continuing basis. The

DISTRICT will develop and provide 6-10 construction stormwater action classes per year for the construction industry, developers, engineers, planners and public utility districts, and COUNTY staff. Training would be held in the Truckee area, the Tahoe Basin, and the "western slope" area of Placer County.

The training would provide additional educational opportunities for COUNTY staff and the private sector regarding Stormwater BMPs, such as erosion control, sediment control, construction activities, street-sweeping, etc. On-the-Job training, for recently hired County employees, is included in this task. Specific training, training format, the number of training sessions, and implementation methods of various training activities shall be determined in consultation with DPW-NPDES staff, before commencing work under this element. This task is expected take up to **133 hours** and will be carried out by the DISTRICT Resource Management Planner (\$10,600)

The COUNTY reserves the right to authorize adjustments to the budgets of each of the individual tasks described above. Approval of such adjustments shall be in writing, with advance approval of the County Executive Officer, or approved designee.

EXHIBIT II

DISTRICT BILLING RATES:	For Fiscal Year:	2009-2010
District Manager		\$80.00/hr
District Resource Management Planner		\$80.00/hr
District Administrative Assistant		\$40.00/hr

2009/2010 BUDGET:

<u>TASK #1:</u>	GENERAL ASSISTANCE	\$8,800.00
<u>TASK #2:</u>	NPDES DIVISION ASSISTANCE	<u>\$21,200.00</u>
	Total Contract	\$30,000.00