

M E M O R A N D U M
DEPARTMENT OF PUBLIC WORKS
County of Placer

TO: BOARD OF SUPERVISORS

DATE: January 22, 2013

FROM:  KEN GREHM / PETER KRAATZ

SUBJECT: INTERGOVERNMENTAL GRANT ADMINISTRATION AGREEMENT

ACTION REQUESTED / RECOMMENDATION

1. Adopt a Resolution authorizing the Director of Public Works to execute an Intergovernmental Grant Administration Agreement with the Tahoe Resource Conservation District (TRCD), with County Counsel's and Risk Management's approval, to assist with storm water monitoring compliance in the Lake Tahoe Basin. There is no net County cost.
2. Authorize the Department of Public Works' commitment to provide a programmatic match of \$25,000 per annual year for four years, not to exceed \$100,000, as specified in the agreement.

BACKGROUND / SUMMARY

The Department of Public Works is a participating agency in the cooperative effort to provide a Lake Tahoe Basin-wide storm water monitoring plan. Monitoring is required of our agency under the new Total Maximum Daily Load (TMDL)-based National Pollutant Discharge Elimination System Permit No. CAG616001 (Permit), adopted December 20, 2011 by the Lahontan Regional Water Quality Control Board. A monitoring plan was developed and will be managed by the TRCD. This is a cooperative effort involving all the regulated jurisdictions in the basin, inclusive of all the California and Nevada agencies. This implementation group (IMP) is operating as a subgroup under the Storm Water Quality Improvement Committee (SWQIC) charter. Funds for the monitoring work have been secured through a Southern Nevada Public Lands Management Act (SNPLMA) grant in the amount of \$750,000, awarded to the Tahoe Resource Conservation District.

The agreement commits Placer County to a portion of the match requirement for the above-referenced federal SNPLMA grant. The SNPLMA grant will require a 1:1 match with state and/or local funds. The Department of Public Works will be responsible for showing a programmatic match estimated at \$25,000 per annual year for four years that will consist of staff labor costs related to Permit compliance efforts. The total programmatic match commitment shall not exceed \$100,000. The SNPLMA funding awarded to the TRCD will help the County and other cooperating agencies maintain consistent compliance with the monitoring requirements of the Permit over the next four years. The alternative is for the County to develop and fund its own individual monitoring program without the benefit of federal funds.

ENVIRONMENTAL

This action is not a project, as defined by Public Resources Code Section 21065, and is therefore exempt from environmental review under California Environmental Quality Act (CEQA).

FISCAL IMPACT

The total four-year cost associated with monitoring under the new TMDL permit is \$750,000. These funds were awarded to the Tahoe Resource Conservation District on behalf of the jurisdictions. The Department must show a programmatic match of these funds. The match will be provided by staff labor costs programmed in our current fiscal year budget and presumably future fiscal year budgets that are dedicated to storm water permit compliance in the Lake Tahoe Basin portion of Placer County.

Attachments:

- Resolution
- Copy Intergovernmental Grant Administration Agreement

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

In the matter of: A RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO EXECUTE, WITH COUNTY COUSEL'S AND RISK MANAGEMENT'S REVIEW AND APPROVAL, AN INTERGOVERNMENTAL GRANT ADMINISTRATION AGREEMENT WITH THE TAHOE RESOURCE CONSERVATION DISTRICT AND AUTHORIZING DEPARTMENT OF PUBLIC WORKS' PROGRAMMATIC MATCH COMMITMENT

Resol. No. _____

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

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:
Clerk of said Board

BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of Placer, State of California, that this Board authorizes the Director of Public Works to execute, with County Counsel's and Risk Management's review and approval, an Intergovernmental Grant Administration Agreement with the Tahoe Resource Conservation District for NPDES storm water monitoring compliance with no net County cost; and authorizes the Department of Public Works' commitment to provide a programmatic match of \$25,000 per year for four years, not to exceed \$100,000 of applicable costs, as specified in the agreement.

INTERGOVERNMENTAL GRANT ADMINISTRATION AGREEMENT

This Agreement, entered into between the Tahoe Resource Conservation DISTRICT (hereinafter "DISTRICT") and Placer County, El Dorado County, and the City of South Lake Tahoe, (hereinafter "JURISDICTIONS") beginning January 22, 2013.

Section 1

Recitals

- A. The DISTRICT has secured grant funds in the amount of \$750,000 from the United States Department of Agriculture United States Forest Service (hereinafter "USFS") through the Southern Nevada Public Land Management Act (SNPLMA) to conduct monitoring for compliance with Sections III and IVF of Attachment C of the State of California Regional Water Quality Control Board Lahontan Region National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water/Urban Runoff Discharges from El Dorado County, Placer County, and the City of South Lake Tahoe Within the Lake Tahoe Hydrologic Unit (hereinafter "Attachment C") which is attached hereto as Exhibit A and incorporated herein by reference.
- B. The DISTRICT will manage the funds and perform the monitoring requirements in accordance with Sections III and IVF of Attachment C (hereinafter the "Project").
- C. The DISTRICT has the necessary capabilities and resources to implement and manage the Project as required by Attachment C.
- D. The JURISDICTIONS and the DISTRICT wish to document the terms and conditions of the duties associated with these grant funds.
- E. In reliance upon the recitals set forth above, and in consideration of the mutual promises herein exchanged, the JURISDICTIONS and the DISTRICT agree as set forth below.

Section 2

The DISTRICT Agrees:

- A. To use funds responsibly to ensure that all tasks associated with grant management and permit compliance are completed efficiently and effectively.
- B. To oversee the progress of the Project in accordance with the Project requirements.
- C. To comply with all applicable federal, state, and local laws in administering the grant funds, specifically including the provisions of 2 CFR Part 225 Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87).
- D. To furnish a Contract Administrator, to carry out the duties for the DISTRICT described above.
- E. To facilitate cooperation between the JURISDICTIONS to comply with Permit requirements collaboratively.

- F. To provide to the JURISDICTIONS for review, a comprehensive, collective Stormwater Monitoring Plan to comply with Section IIIC of Attachment C as described in Section IIIE by January 18, 2013.
- G. To submit to the Water Board a Stormwater Monitoring Plan approved by the JURISDICTIONS by March 15, 2013.
- H. To conduct the Catchment Scale Runoff Water Quality Monitoring in accordance with Section IIIA of Attachment C and the Water Board approved Stormwater Monitoring Plan.
- I. To conduct Best Management Practice (BMP) Effectiveness Monitoring in accordance with Section IIIB of Attachment C and the Water Board approved Stormwater Monitoring Plan.
- J. To manage and share data in accordance with Section IIID of Attachment C.
- K. To prepare and submit to JURISDICTIONS for review, an Annual Stormwater Monitoring Report in accordance with Section IVF of Attachment C by February 1, 2015 for monitoring conducted during Water Year 2014 (October 1, 2013 – September 30, 2014) and by February 1st each subsequent year of the permit term.
- L. To submit to the Water Board, an Annual Stormwater Monitoring Report in accordance with Section IVF of Attachment C by March 15, 2015 for monitoring conducted during Water Year 2014 (October 1, 2013 – September 30, 2014) and by March 15th each subsequent year of the Permit term.
- M. To coordinate DISTRICT's project activities with the JURISDICTIONS and provide JURISDICTIONS with copies of all documentation produced to satisfy Attachment C requirements.
- N. To keep documentation received and produced on file for reports and future use.

Section 3

PLACER COUNTY Agrees:

- A. To cooperate with DISTRICT as reasonably required to carry out the purposes of this Project.
- B. To cooperate with all partnering JURISDICTIONS as reasonably required to carry out the purposes of this Project.
- C. To provide direction for and review of any activities conducted by the DISTRICT for Permit compliance, including, but not limited to, quarterly coordination with the DISTRICT.
- D. To provide input and review of any documents resulting from activities conducted by the

DISTRICT for Permit compliance including, but not limited to:

- a. Reviewing the Stormwater Monitoring Plan prepared by the DISTRICT prior to submittal by the DISTRICT to the California Regional Water Quality Control Board Lahontan Region (hereinafter "Water Board").
- b. Reviewing the Annual Reports prior to submittal by District to the Water Board.
- E. To furnish a primary Project Contact, to be responsible for assuring that the duties described in Attachment C are carried out. That primary contact will be Kansas McGahan of the Placer County Department of Public Works, or her designee.
- F. To provide \$25,000 per year for four years in in-kind salary match.
- G. To carry out the duties as described in Attachment C to comply with Sections I, II, and IVA-E and IVG-J.
- H. To comply with all applicable federal, state, and local laws in administering the grant funds, specifically including the provisions of 2 CFR Part 225 Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87).

Section 4

It is Mutually Agreed:

- A. The DISTRICT and the JURISDICTIONS intend to fulfill their obligations stated in this Agreement, but DISTRICT shall be required to fulfill this agreement only if or to the extent that the grant funds are actually provided to the DISTRICT. In the event such grant funds are not provided, or cease to be provided, the DISTRICT will notify the JURISDICTIONS immediately of this situation.
- B. No compensation shall be made to any parties by another party as a result of this Agreement.
- C. Indemnification by the JURISDICTIONS: To the extent limited in accordance with NRS 41.0305 to 41.039, the JURISDICTIONS shall indemnify, defend and hold harmless the DISTRICT, its officers, employees and agents from and against any and all liabilities, claims, losses, lawsuits, judgments and/or expenses, including attorney fees, arising either directly or indirectly from any act or failure to act by the JURISDICTIONS or any of its officers or employees, which may occur during or which may arise out of the performance of this Agreement. The Jurisdiction will assert the defense of sovereign immunity as appropriate in all cases, including malpractice and indemnity actions. The JURISDICTIONS' indemnity obligation for actions sounding tort is limited in accordance with the provisions of NRS 41.035
- D. Indemnification by DISTRICT: DISTRICT shall indemnify, defend and hold harmless the Jurisdiction, its officers, employees, and agents from and against any and all liabilities, claims, losses, costs or expenses, including attorney fees, arising either directly or

indirectly from any act or failure to act by the DISTRICT or any of its officers or employees, which may occur during or which may arise out of the performance of this Agreement.

- E. This Agreement contains all of the agreements and representations of the parties with respect to any matter covered or mentioned in this Agreement. No prior agreements, arrangements or understandings pertaining to such matters shall be effective for any purpose. No provision of this Agreement may be amended or added to except by an agreement in writing signed by each party or each party's successor in interest.
- F. Any provision of this Agreement which proves to be invalid, or illegal, shall in no way affect, impair or invalidate any other provisions of this Agreement, and such other provisions shall remain in full force and effect.
- G. Each party certifies to each other that he or she is fully authorized and competent to enter into this Agreement in the capacity indicated by his or her signature and agrees to be bound by this Agreement as of the effective date of this Agreement.
- H. This Agreement shall be construed in accordance with the provisions of a court of competent jurisdiction. All parties to this Agreement are knowledgeable concerning such transactions and have fully and fairly negotiated the terms hereof. Therefore, no presumption shall arise from the identity of the drafter.
- I. Any changes to this Agreement shall be made by means of a written modification. Changes dealing with administrative matters (such as in paying office, changes of address, etc.) may be made by a unilateral modification. A modification issued solely for funding a Federal Fiscal Year may also be made unilaterally. Any other changes shall be made by a bilateral modification (signed and mutually agreed upon by both parties).
- J. When entering into an interagency agreement with another party, DISTRICT commits itself to working with the party in a harmonious manner to achieve the objectives of the project successfully. When disagreements over the interpretation, implementation, or terms of the Agreement arise between the parties, they must be resolved according to the following procedures:
 - a. DISTRICT shall attempt first to resolve disagreements with the other party through informal discussion between the DISTRICT Project Manager and the Jurisdiction's Project Director.
 - b. If the disagreement cannot be resolved through informal discussion between these parties, any such disagreement shall be resolved by a court of competent jurisdiction and subject to California Tort Law.
- K. Termination of this Agreement, either for cause or convenience, will be in accordance with the provisions of 43CFR Part 12 Subpart C Section 12.84 "Termination for Convenience" and in accordance with the provisions of the Assistance Agreement.

- L. The term of this Agreement shall be from the last day signed and executed by the duly authorized representatives of the parties to this Agreement and the governing bodies of the parties' respective counties or municipalities and shall remain in full force and effect until the end of the NPDES permit term on December 5, 2016 or until the end of the Federal Financial Assistance Award of Domestic Grant 13-DG-11051900-001 between Tahoe Resource Conservation District and the USDA, Forest Service Lake Tahoe Basin Management Unit, whichever comes first.
- M. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.
- N. Each Party agrees to retain or caused to be retained for access by the funding agencies for audit, examinations, excerpts, and transcripts all financial and programmatic records, supporting documents, statistical records, or other records which are required to be maintained under the terms of this Agreement for a period of three (3) years from the date of submittal of the final invoice.

Section 5

General Provisions

- A. The provisions of the Assurances executed by the JURISDICTIONS and the DISTRICT in connection with this Agreement shall apply with full force and effect to this Agreement as if fully set forth in these General Provisions. Such Assurances include, but are not limited to, the promise to comply with all applicable Federal statutes and orders relating to nondiscrimination in employment, assistance, and housing: the Hatch Act; Federal Wage and hour laws and regulations and work place safety standards; Federal environmental laws and regulations and the Endangered Species Act; and Federal Protection of rivers and waterways and historic and archaeological preservation.
- B. The JURISDICTIONS and the DISTRICT certify that no person or agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide offices established and maintained by the JURISDICTIONS or the DISTRICT for the purpose of securing agreements or business. For breach or violation of this certification, the Government shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the agreement amount, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.
- C. The JURISDICTIONS and the DISTRICT shall take all necessary affirmative steps to assure that minority firms, and women's business enterprises are used when possible. The affirmative steps shall include:
 - 1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - 2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
 4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises;
 5. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce as appropriate, and
 6. Requiring the prime contractor, if subcontracts are to be let, to take affirmative steps listed in C.1. through 5 above.
- D. In accordance with Section 502 of the Energy and Water Development Appropriations Act, 2002, Public Law 107-66, the JURISDICTIONS and the DISTRICT are advised of the following:

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

- E. In accordance with Section 501 of the Energy and Water Development Act, 2002, Public Law 107-66, the JURISDICTIONS and the DISTRICT are advised of the following:

None of the funds appropriated by this Act may be used in any way, directly or indirectly, to influence Congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in section 1913 of Title 18, United States Code.

- F. The JURISDICTIONS and the DISTRICT are encouraged to adopt and enforce on-the-job seat belt use policies and programs for their employees when operating company-owned, rented, or personally-owned vehicles. These measures include, but are not limited to, conducting education, awareness, and other appropriate programs for their employees about the importance of wearing seat belts and the consequences of not wearing them.

- G. The following certifications are incorporated by reference and made a part of this Agreement:

Certifications Regarding Debarment, Suspension, and Other Responsibility Matters, Drug- Free Workplace Requirements, and Lobbying (DI-2010)

Section 6

Notice provision for the DISTRICT/JURISDICTIONS

All notices required to be given under this Agreement shall be sent first class mail, return receipt requested to the following:

DISTRICT

Kim Boyd
Program Manager
Tahoe Resource Conservation District
870 Emerald Bay Road
South Lake Tahoe, CA 96150
email: kboyd@tahoercd.org

PLACER COUNTY

Ken Grehm
Director of Department of Public Works
Placer County
3091 County Center Drive, Suite 220
Auburn, CA 95603
(530) 581-7588

TAHOE RESOURCE CONSERVATION DISTRICT

By: _____
Robert Anderson, President
Tahoe Resource Conservation District
Board of Directors

Date: _____

PLACER COUNTY

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

Date: _____

ATTEST:

By: _____
Holly Nattress
Administrative Services Coordinator

Date: _____

APPROVED AS TO FORM:

By: _____
County Counsel
Placer County

Date: _____

