

MEMORANDUM

DEPARTMENT OF PUBLIC WORKS

County of Placer

TO: BOARD OF SUPERVISORS

DATE: May 21, 2013

FROM: KEN GREHM / PETER KRAATZ

SUBJECT: EXECUTION OF GRANT AGREEMENT NO. CN000762 WITH PLACER COUNTY AIR POLLUTION CONTROL DISTRICT

ACTION REQUESTED / RECOMMENDATION

1. Adopt a Resolution authorizing the Director of Public Works to finalize and execute Agreement No. CN000762, between Placer County Air Pollution Control District (PCAPCD) and Placer County Department of Public Works in the amount of \$127,500 for the funding of construction of two (2) transit shelters for bus patrons to be serviced by Placer County's Tahoe Regional Area Transit (TART) public bus system in Kings Beach, California. There is no net County cost.
2. Authorize the Director of Public Works or his/her designee to execute in the name of Placer County Department of Public Works, all grant documents, including but not limited to, applications, agreements, amendments and requests for payment, necessary to secure grant funds and implement the approved grant project.

BACKGROUND / SUMMARY

Located along the north shore of Lake Tahoe in Placer County, California, the Kings Beach Commercial Core Improvement Project represents a "shovel-ready" project consisting of a major public infrastructure effort to revitalize the lake shore community of Kings Beach with intermodal and roadway safety enhancements coupled with "complete street" concepts and streetscape improvements including four transit shelters to be serviced by Placer County's Tahoe Regional Area Transit (TART) public bus system. The project will help trigger redevelopment efforts and provide multi-modal benefits that will better connect and provide safer transportation options within the community. The project is a part of a strategy to make the Lake Tahoe Basin's transportation system more adaptable, interconnected, and sustainable. By reducing greenhouse gas emissions, dependency on oil, providing healthier and safer transportation choices, and a safer multimodal network in the community, the proposed transportation improvements can positively impact Lake Tahoe's environmental quality, in addition to improving public health. In the 2010 Lake Tahoe Region Bicycle and Pedestrian Plan, the Tahoe Regional Planning Agency (TRPA) compiled data from local surveys and research and concluded that a built-out bicycle and pedestrian network connected to the various public transit systems can improve air quality, as it is estimated to reduce vehicle miles traveled (VMT) in the Tahoe Basin, a TRPA air quality threshold indicator, by 8,500 miles on a peak summer day.

Construction of the transit shelters is estimated to occur in 2015 and 2016. Public Works originally proposed two shelters to be built for the project, and now with the PCAPCD funding, two additional bus shelters will be built for a total of four to support and enhance public transit in downtown Kings Beach.

ENVIRONMENTAL

The County prepared an Environmental Impact Report (EIR) for the project pursuant to the requirements for CEQA and the Placer County Environmental Review Ordinance; and Environmental Impact Statement (EIS) to meet the requirements of the Tahoe Regional Planning Agency; and an Environmental Assessment (EA) to meet the requirements of the Federal Highway Administration. The EIR was adopted by the Board of Supervisors on September 23, 2008.

FISCAL IMPACT

There is no fiscal impact to the County. The Department will budget the appropriate amount in the appropriate Department Fiscal Year Budget(s). No matching funds were required for this PCAPCD grant, however, the grant requires that Public Works constructs two additional shelters which are already accounted for in the project scope and budget.

Attachments: Resolution; Location Map, Copy of Agreement

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

In the matter of: ADOPT A RESOLUTION
AUTHORIZING THE DIRECTOR OF PUBLIC
WORKS OR HIS/HER DESIGNEE TO
FINALIZE AND EXECUTE IN THE NAME OF
PLACER COUNTY DEPARTMENT OF PUBLIC
WORKS AGREEMENT NO. CN000762.

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

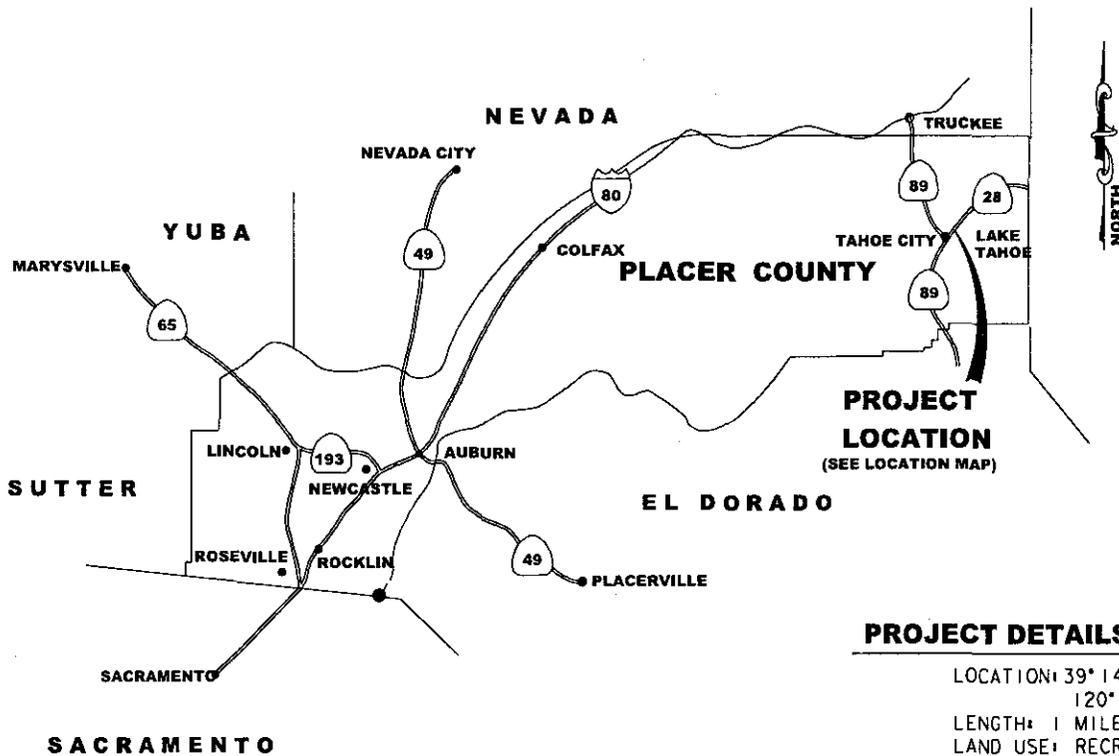
Attest:
Clerk of said Board

BE IT FURTHER RESOLVED, that the Director of Public Works is hereby authorized to finalize and execute Agreement No. CN000762, between Placer County Air Pollution Control District (PCAPCD) and Placer County Department of Public Works in the amount of \$127,500 for the funding of construction of two (2) transit shelters for bus patrons to be serviced by Placer County's Tahoe Regional Area Transit (TART) public bus system in Kings Beach, California; and is empowered to conduct all negotiations, and submit all documents, including, but not limited to applications, agreements, amendments, payment requests and so on, which may be necessary for the completion of the aforementioned project.

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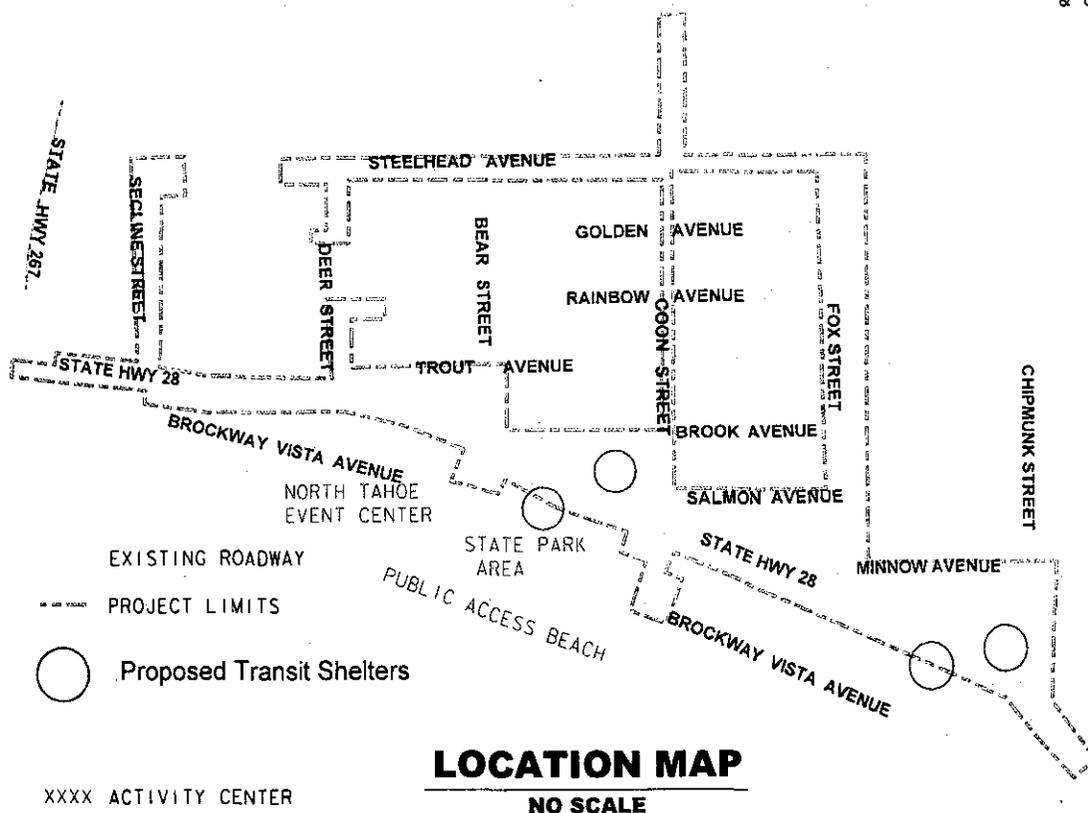
VICINITY MAP

KINGS BEACH COMMERCIAL CORE IMPROVEMENT PROJECT



PROJECT DETAILS:

LOCATION: 39° 14' 15.67" N
 120° 01' 25.69" W
 LENGTH: 1 MILE
 LAND USE: RECREATIONAL,
 RESIDENTIAL
 & COMMERCIAL



LOCATION MAP
 NO SCALE

XXXX ACTIVITY CENTER

Agreement Number CN000762

DESCRIPTION: INSTALL TWO TAHOE AREA REGIONAL TRANSIT (TART) BUS SHELTERS IN KINGS BEACH

This AGREEMENT is between the Placer County Air Pollution Control District (hereinafter "PCAPCD") and Placer County Department of Public Works, a political subdivision of the State of California (hereinafter "CONTRACTOR").

RECITALS

WHEREAS, under AB 2766 and AB 923 (Health and Safety Code Section 44220 and 44225 *et. seq.*), the PCAPCD has levied a \$6.00 fee on motor vehicles registered within the PCAPCD; and

WHEREAS, the PCAPCD has received Air Quality Mitigation Funds to off-set the impact of new development in Placer County by reducing emissions, primarily ozone precursor emissions, from sources that are not required by law to reduce emissions; and

WHEREAS, pursuant to AB 2766, AB 923 and the APCD's Offsite Mitigation Program, the monies collected under these levies must be used to reduce air pollution from motor vehicles and other sources, and for related air quality planning, education, air monitoring, and technical studies necessary for the implementation of the California Clean Air Act; and

WHEREAS, CONTRACTOR has requested that the PCAPCD provide Clean Air Grant monies for the PROJECT(s) described in Exhibit A, subject to the terms and conditions set forth in this AGREEMENT; and

WHEREAS, CONTRACTOR has represented to the PCAPCD that CONTRACTOR has the necessary expertise, experience and ability to competently complete the described PROJECT(s); and

WHEREAS, PCAPCD staff has carefully reviewed the described PROJECT(s) and have found it/them to be within the requirements of AB 2766, AB 923 and the Offsite Mitigation Program in that the PROJECT(s) are reasonably expected to reduce air pollution and help in the further implementation of the California Clean Air Act and,

WHEREAS, the PCAPCD Board of Directors has approved Resolution #13-06, authorizing the Air Pollution Control Officer to negotiate, sign, and amend as needed, grant agreements and contracts for approved projects listed in the table "PCAPCD Clean Air Projects 2013".

NOW THEREFORE, In consideration of the promises and covenants set forth herein, the parties agree as follows:

1. Contract Period

- a) The term of this contract shall begin on the date signed by both parties and conclude on or before May 31, 2018, unless terminated or amended.
- b) This contract may be canceled by either party upon serving thirty (30) days notice in writing to the other party.

2. Services

- a) CONTRACTOR agrees, during the term of this AGREEMENT, to perform the contracting services set forth below and in Exhibit "A" – Scope of Services (hereinafter "PROJECT").
- b) CONTRACTOR shall be obligated to devote as much time, attention, skill, and effort as may be reasonably required to perform the PROJECT services, in a professional and timely manner, consistent with the elements of the project.

3. Payment

- a) PCAPCD agrees to pay for the services covered by this AGREEMENT pursuant to the payment schedule set forth below and in Exhibit "B"- Contract Terms and Payment for Services Rendered.
- b) The amount paid to the CONTRACTOR shall constitute full payment for all services set forth herein. CONTRACTOR shall not be reimbursed for any additional expenses incurred beyond the maximum approved sum.
- c) CONTRACTOR shall bill PCAPCD upon completion of the project and after all of the conditions for funding outlined in this AGREEMENT are met. If the project funded under this contract is performed in phases or over a period of time, then requests can be made by the CONTRACTOR for partial payment. Partial requests for payments must receive prior authorization by the PCAPCD. CONTRACTOR agrees to provide a detailed invoice to PCAPCD with copies of purchase orders, signed contracts, or receipts referencing the contract number. PCAPCD retains the right to require proof of services performed or costs incurred prior to any payment under this AGREEMENT.
- d) Notwithstanding any other terms of this AGREEMENT, no payments shall be made to CONTRACTOR until PCAPCD is satisfied that work of such value has been rendered pursuant to this AGREEMENT. However, PCAPCD shall not unreasonably withhold payment and, if a dispute exists, the withheld payment shall be proportional only to the item in dispute.

4. **Notices**

- a) Any notice or demand desired or required to be given hereunder shall be in writing and deemed given when personally delivered or deposited in the mail, postage prepaid, sent certified or registered and addressed to the parties as follows:

PCAPCD:
Placer County Air Pollution Control District
Attn: Air Pollution Control Officer
110 Maple Street
Auburn, CA 95603

CONTRACTOR
Ken Grehm
Placer County Department of Public Works
P.O. Box 336
Kings Beach, CA 96143

- b) Any notice so delivered personally shall be deemed to be received on the date of delivery and any notice mailed shall be deemed to be received five (5) days after the date on which it was mailed.

5. **Obligations of PCAPCD**

- a) PCAPCD agrees to pay CONTRACTOR an amount not to exceed the requirements set forth in Exhibit "B" – Contract Terms and payment for Services Rendered, in accordance with the requirements listed in Exhibit "A" – Scope of Services.
- b) PCAPCD shall not reimburse CONTRACTOR for any expenses incurred by CONTRACTOR in the performance of PROJECT described in Exhibit A unless such reimbursement is specifically authorized in the Payment Schedule. CONTRACTOR shall not be reimbursed for any additional expenses incurred beyond the maximum amount.
- c) Except for the payment obligations set forth above, PCAPCD shall have no other obligations or responsibilities to CONTRACTOR under this AGREEMENT.

6. **Obligations of CONTRACTOR**

- a) CONTRACTOR has or will obtain all additional funding set forth in Exhibit B of this AGREEMENT.
- b) CONTRACTOR has or will obtain all required licenses, permits, fees, and other legal authorizations from all applicable Federal, State, and local jurisdictions necessary to commence and properly complete, in a professional manner, the PROJECT described in Exhibit A and will produce said documents if requested by PCAPCD.
- c) Labor, equipment, material, supply costs and other charges will be in conformance with the requirements of Exhibit A.

- d) No component of the monies to be paid by PCAPCD to CONTRACTOR shall be used for grant administration or any interest costs.
- e) CONTRACTOR shall provide proof of PROJECT completion and verification of costs as set forth in Exhibit A and paragraph 3.

7. **Hold Harmless/Indemnity**

- a) The CONTRACTOR hereby agrees to protect, defend, indemnify, and hold PCAPCD 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 PCAPCD arising in favor of any party, including claims, liens, debts, personal injuries, death, or damages to property (including employees or property of PCAPCD) 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. CONTRACTOR agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demand, or suit at the sole expense of the CONTRACTOR. CONTRACTOR 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 CONTRACTOR or PCAPCD or to enlarge in any way the CONTRACTOR'S liability but is intended solely to provide for indemnification of PCAPCD from liability for damages or injuries to third persons or property arising from CONTRACTOR'S performance pursuant to this contract or agreement.
- b) As used above, the term PCAPCD means PCAPCD or its officers, agents, employees, and volunteers.

8. **Insurance Requirements**

It is recognized that CONTRACTOR is a self insured public agency, and as such provides coverage for General Liability, Errors & Omissions and Worker's Compensation. CONTRACTOR shall maintain said insurance in full force and effect during the term of this contract.

9. **Facilities, Equipment and Other Materials**

Except as set forth herein CONTRACTOR shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this AGREEMENT. PCAPCD shall furnish CONTRACTOR only those facilities, equipment, and other materials, and shall perform only those obligations as listed herein.

10. Non-Discrimination

CONTRACTOR shall not discriminate in its employment practices because of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, sexual preference, or in contravention of any other protected classification or practice identified in the California Fair Employment and Housing Act; Government Code section 12900 et seq.

11. Records and Documents

- a) CONTRACTOR shall maintain at all times complete, detailed records with regard to work performed under this AGREEMENT, in a form acceptable to PCAPCD, and PCAPCD shall have the right to inspect such records at any reasonable time.
- b) CONTRACTOR agrees to return to PCAPCD, upon termination of this AGREEMENT, all documents, drawings, photographs, and other written or graphic material, however produced, received from PCAPCD and used by CONTRACTOR in the performance of its services. All work papers, drawings, internal memoranda, graphics, photographs, and any written or graphic material, however produced, prepared by CONTRACTOR in connection with its performance of services hereunder shall be, and shall remain after termination of this AGREEMENT, the property of PCAPCD and may be used by the PCAPCD for any purpose whatsoever. PCAPCD agrees that any future use of documents produced by the CONTRACTOR under the terms of this contract shall be at the sole discretion of the PCAPCD and CONTRACTOR shall bear no liability for the decisions on whether and how to use such documents.

12. Independent Status

- a) CONTRACTOR shall perform this contract as an independent CONTRACTOR and not as an employee of PCAPCD. CONTRACTOR acknowledges that CONTRACTOR is not entitled to any of the PCAPCD's fringe benefits, including without limitation; paid holidays, life insurance, sick leave, or travel or any other expenses in connection with services performed hereunder. No part of the compensation payable to CONTRACTOR hereunder shall be deducted or withheld for payment of Federal or State income or other employment related taxes. It shall be the responsibility of CONTRACTOR to provide all coverage necessary for CONTRACTOR'S own benefit and not as an employee of PCAPCD.
- b) Except as PCAPCD may specify in writing, CONTRACTOR shall have no authority, express or implied, to act on behalf of PCAPCD in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this AGREEMENT to bind PCAPCD to any obligation whatsoever.

13. Warranties

CONTRACTOR warrants that its services are performed, with the usual thoroughness and competence; in accordance with the standard for professional services at the time those services are rendered.

14. Licenses, Permits, Etc

CONTRACTOR represents and warrants to PCAPCD that it has or will obtain before initiation of the PROJECT, all licenses, permits, qualifications, and approvals of whatever nature, which are legally required for CONTRACTOR to practice its profession. CONTRACTOR represents and warrants to PCAPCD that CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this AGREEMENT, any licenses, permits, and approvals which are legally required for CONTRACTOR to practice its profession at the time the services are performed.

15. Assignment or Transfer

CONTRACTOR may assign any of its rights, burdens, duties, or obligations under this AGREEMENT only upon the prior written consent of PCAPCD. Approval will be at the sole discretion of PCAPCD.

16. Modification of Agreement

This AGREEMENT cannot be changed or supplemented orally, and may be modified or superseded only by written instrument executed by all parties.

17. Waiver

One or more waivers by one party of any major or minor breach or default of any provision, term, condition, or covenant of this AGREEMENT shall not operate as a waiver of any subsequent breach or default.

18. Entirety of AGREEMENT

This AGREEMENT constitutes the entire AGREEMENT and understanding between the parties. There are no oral understandings, terms, or conditions, and no party has relied upon any representation, express or implied, not contained in this AGREEMENT. Any prior understandings, terms, or conditions are deemed merged into this AGREEMENT. This AGREEMENT is intended as the complete and exclusive statement of the parties' Agreement pursuant to Code of Civil Procedure section 1856.

19. Jurisdiction

This AGREEMENT, and the right and obligations of the parties, shall be governed by and construed in accordance with the laws of the State of California. If any action is instituted to enforce or interpret this AGREEMENT, venue shall only be in the appropriate state or federal court having venue over matters arising in Placer County, California, provided that

nothing in this AGREEMENT shall constitute a waiver of immunity to suit by the PCAPCD.

20. **Exhibits**

All exhibits referred to herein and attached hereto are fully incorporated by this reference.

The parties so agree.

PCAPCD:

Thomas J. Christofk
Air Pollution Control Officer

Date

CONTRACTOR:

Ken Grehm
Director of Public Works

Date

**EXHIBIT A
SCOPE OF SERVICES**

Contract Number: CN000762

CONTRACTOR: Placer County Department of Public Works

Prior to funding, and prior to the close of the Project Completion End Date, as outlined in Exhibit B, the CONTRACTOR shall:

1. construct two Tahoe Area Regional Transit (TART) bus shelters on State Highway 28 in Kings Beach as outlined in the CONTRACTOR'S 2013 Clean Air Grant Application.
2. permanently install a sign/plaque (or other form of permanent advertisement) at each shelter which advertises that partial funding was made available by the PCAPCD.
3. provide copies of paid invoices relative to the purchase of two TART bus shelters funded through this AGREEMENT.
4. submit an original invoice to the PCAPCD, for the amount of requested grant funds for reimbursement.
5. notify PCAPCD in writing if installation and/or implementation of this PROJECT will deviate from the scope of work outlined in the CONTRACTOR'S 2013 Clean Air Grant Application. This notification will be submitted at least 30 days in advance of any request for payment and must be approved by the APCO prior to the disbursement of any funds.

If for any reason, after PROJECT funding, the equipment/project funded under this contract does not perform according to what was submitted in the 2013 CAG application or if the conditions of this contract are not met, the PCPACD may seek reimbursement of grant funds.

**EXHIBIT B
CONTRACT TERMS AND PAYMENT FOR SERVICES RENDERED**

Contract Number: CN000762

CONTRACTOR: Placer County Department of Public Works

Budget:

Amount Awarded by PCAPCD:	\$ 127,500
Co-Funding (including in-kind):	\$ 132,500
Estimated Total PROJECT Amount:	\$ 260,000

Contract Schedule (to occur on or before the following dates):

Start Date:	when signed by both parties
Project Completion End Date:	May 31, 2018
Contract End Date:	May 31, 2018

Payment:

The PCAPCD will provide up to One Hundred Twenty-seven Thousand Five Hundred Dollars (\$127,500) in funding for two TART bus shelters in accordance with the requirements listed in this AGREEMENT.

Payment(s) shall be made to the CONTRACTOR within thirty (30) days after the billing is received and approved by the PCAPCD.

Invoices:

Invoices shall be submitted to the PCAPCD in an original format and include contract number CN000762. Along with submitting an invoice for reimbursement, provide copies of all paid receipts and proof of in-kind support (when applicable) associated with the PROJECT funded under this AGREEMENT.