

CTC 2015-0422 LT No. 164 - El Dorado County

License Agreement between
the California Tahoe Conservancy and El Dorado County
for the Lake Tahoe Boulevard Enhancement
Erosion Control/Stream Environment Zone Project

This Agreement is entered into this 22nd day of April, 2015, by and between the State of California acting by and through the California Tahoe Conservancy, (hereinafter "the Conservancy") and El Dorado County (hereinafter "the County") pertaining to El Dorado County APN: 033-010-20.

Recitals

WHEREAS, pursuant to its authority under Government Code section 66906.7, the Conservancy awarded a grant to the County for the planning and design of erosion control facilities;

WHEREAS, pursuant to Government Code section 66907.8 and its duly adopted resolution of June 19, 1987, the site improvement grant for the Lake Tahoe Boulevard Enhancement EC/SEZ Project and Mitigated Negative Declaration (MND) authorized and adopted by the Board on March 20, 2014 Resolution #14-03-05, and the April 22, 2015 Addendum to the MND, the Conservancy may give licenses for erosion control purposes;

WHEREAS, the Conservancy owns or has an interest in certain real property adjoining the County road right-of-way, described in **Exhibit A**; attached hereto and incorporated herein ("the Property"), on which the County desires to remove an existing conveyance pipe, associated with the construction of the Lake Tahoe Boulevard Enhancement-Erosion Control/SEZ Project ("the Project") for the purposes stated above;

WHEREAS, most of the erosion control work undertaken by the County will be confined to the existing roadways, embankments, gutters, pathways, and drainage ditches within the right-of-way of roads maintained by the County;

WHEREAS, some of the vegetation, basins, culverts, pathways, and drainage ditches extend beyond the road right-of-way and onto adjoining properties;

WHEREAS, the County desires access to the lands adjoining the road right-of-way in order to construct and maintain storm drain systems, water quality treatment basins, rock dissipaters, sediment traps, and revegetation as described in **Exhibit B** ("the improvements and temporary construction area");

WHEREAS, the areas disturbed for these efforts will be fully rehabilitated to the satisfaction of the Conservancy upon completion of the project, including breaking up and loosening the surface of soil, application of mulch, re-seeding and revegetating to ensure permanent long term restoration in a natural condition; and

NOW THEREFORE, in consideration of the mutual covenants, terms, restrictions and conditions hereafter set forth, the Conservancy and the County hereby agree as follows:

Term of Agreement

The term of this Agreement shall be three (3) years, commencing on the date of execution of this Agreement, unless terminated earlier by mutual agreement in writing by all parties to this Agreement provided that the Conservancy continues to retain ownership of the parcel. Provided, however, that if erosion control project improvements are constructed on the Property within said period, the County shall have the right to enter on the Property for up to twenty (20) years from the date of completion of said improvements, for maintenance purposes, as set forth herein.

Access

The Conservancy agrees that for the duration of this Agreement, subject to all of the conditions and terms hereof, any employee or agent of the County or duly authorized contractor performing construction pursuant to a County erosion control project may enter upon and use the Property for the purposes set forth herein.

Purpose

The Property may be entered upon and used by the County solely for the purpose of conducting surveys, constructing and maintaining water quality treatment devices, flared end sections, bio-spreaders, rock dissipaters, sediment traps, infiltration channels, revegetation, staging and storing equipment and materials, and incidental purposes related thereto.

Condition Precedent to Construction

In addition to any other conditions contained herein, improvements for the Project shall not be constructed on the Property until the Executive Director of the Conservancy or his designee has approved the construction plans.

Maintenance

The County shall be obligated to operate and maintain any improvements it constructs on the Property for purposes of soil erosion and drainage control. Where the improvements are being constructed pursuant to a soil erosion control project funded in whole or in part by the Conservancy under a Conservancy grant agreement, the improvements shall be operated and maintained in a manner consistent with the terms and provisions of the grant

agreement. Parcels utilized for staging shall be fully restored to natural conditions immediately following construction of the project. The County may be excused from its maintenance only upon the written approval of the Executive Director of the Conservancy for good cause shown. "Good cause" includes, but is not limited to, natural disasters which destroy the improvements and render the soil erosion control project obsolete or impracticable to rebuild.

Standards of Workmanship

All work undertaken by the County under this Agreement shall comply with and conform to all applicable building, fire and sanitary laws, ordinances, and regulations of any governmental agency having jurisdiction over the Property. The County shall seek all permits, licenses and/or approvals applicable to the repair and operation of the facility as contemplated by this Agreement, including but not limited to building and/or use permits required by any public body having jurisdiction over the Property. All such permits shall list the Conservancy as co-permittee. The Conservancy shall have the right to use and occupy the Property provided said use and occupancy does not interfere with the construction, operation, and maintenance of the soil erosion control project.

Liability and Indemnification

The County waives all right to recourse against the Conservancy, including the right to contribution or indemnification for any and all claims, demands, costs, expenses, liabilities, and losses arising out of any damage or injury to any person or persons, including the Conservancy, or property of any kind whatsoever and to whomsoever belonging, including the Conservancy, from any cause or causes reasonably related to the County's presence or activities on the Property, except for matters arising out of the sole and active negligence of the Conservancy.

The County agrees to indemnify, protect, defend and hold harmless the Conservancy, its successors and assigns from any and all claims, demands, costs, expenses, liabilities, and losses arising out of any damage or injury to any person or persons, including the Conservancy, or to any property of any kind whatsoever and to whomsoever belonging, including the Conservancy, from any cause or causes reasonably related to the County's presence or activities on the Property, except for matters arising out of the sole and active negligence of the Conservancy.

Fees and Assessments

The County covenants and agrees to keep the Property free from any mechanic's or materialmen's liens claimed by any person, firm, or corporation employed by or on behalf of the County for any work or services performed under this Agreement. In the event of the filing of any such liens, the County shall cause such lien to be released within five (5) days after the Conservancy's written notice to do so. The County shall indemnify and defend the Conservancy and the State of California against any and all liability, cost and

expense including attorney's fees incurred by the Conservancy or the State of California as a result of any such lien.

Prior Encumbrances

This Agreement is subject to all easements, leases, liens, conditions, restrictions, encumbrances, and claims of title which may affect the Property. The County understands that the Conservancy makes no warranties as to the Properties' present condition. The County further understands that Conservancy shall not be responsible for any defect or change of conditions in the Property or for any damage occurring thereto or for the existence of any violation of any municipal, County, State or Federal law, order, rule, regulation, or ordinance.

Assignment

Without the written consent of the Conservancy or its successors or assigns, the County's rights and responsibilities under this Agreement may not be assigned. In the event the Conservancy consents to an assignment, the terms of this Agreement shall be binding on the County's assignee.

Forbearance Not a Waiver

Any forbearance on the part of either party to this Agreement, or their successors in interest and assigns, to enforce the terms and provisions of this Agreement in the event of any violation or breach shall not be deemed a waiver of either party's legal rights regarding any subsequent violation or breach.

Severability

The provisions of this Agreement are intended to be severable, separate, and distinct from each other. If any provision hereof is determined to be invalid or for any reason becomes unenforceable, no other provisions shall be thereby affected or impaired.

Captions

The captions on the paragraphs of this Agreement are for convenience only and shall have no force and effect whatsoever in interpreting the obligations or rights of the parties hereunder.

Entire Agreement

This Agreement contains the entire Agreement between the Conservancy and the County, relating to the rights granted and the obligations assumed herein. Any oral representations or modifications of this Agreement shall be of no force and effect unless embodied in a subsequent modification in writing signed by the party to be charged.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CALIFORNIA TAHOE CONSERVANCY

Patrick Wright, Executive Director

Date: _____

COUNTY OF EL DORADO

Brian K. Veerkamp, Chair of the Board of Supervisors

Date: _____

Attest:
James S. Mitrisin, Clerk of the Board of Supervisors

Deputy Clerk

Date: _____

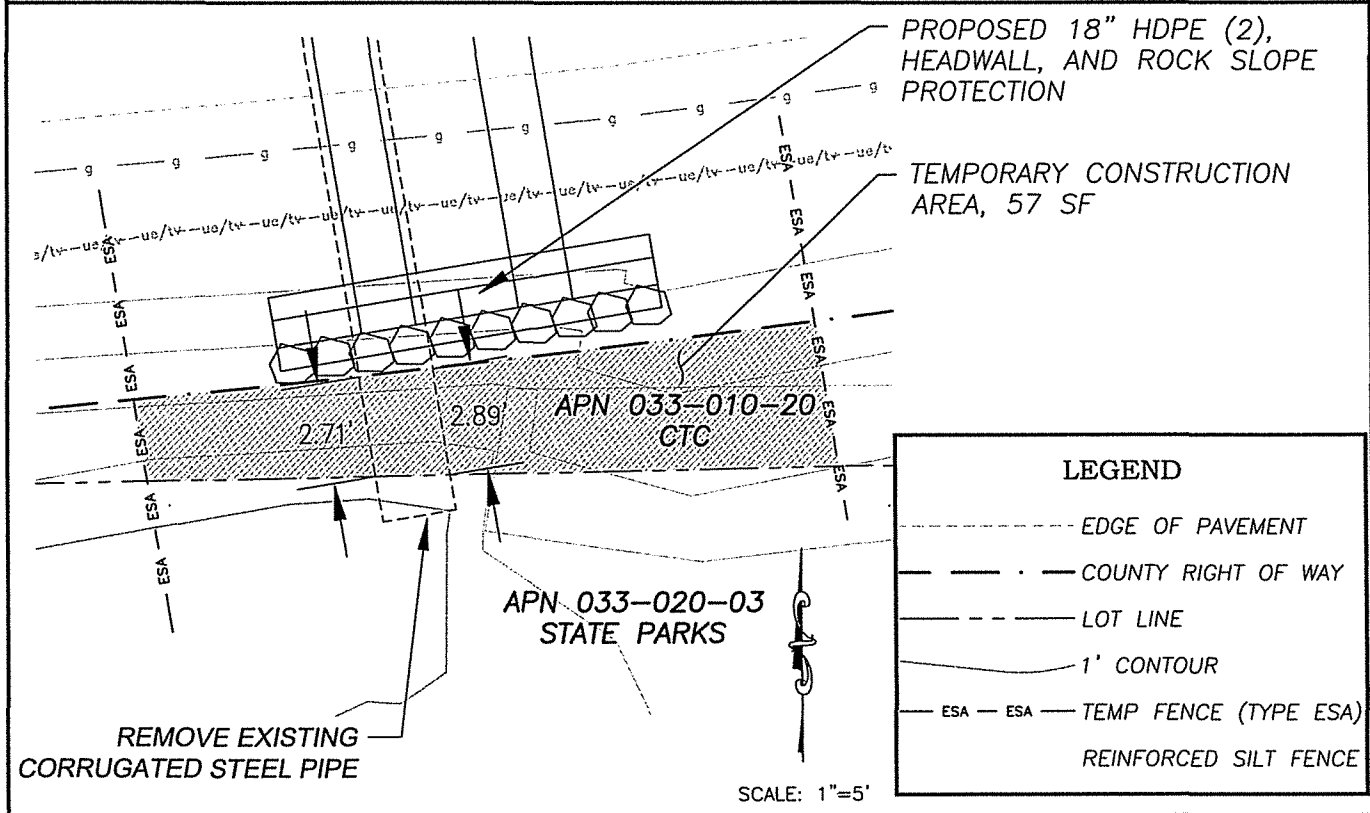
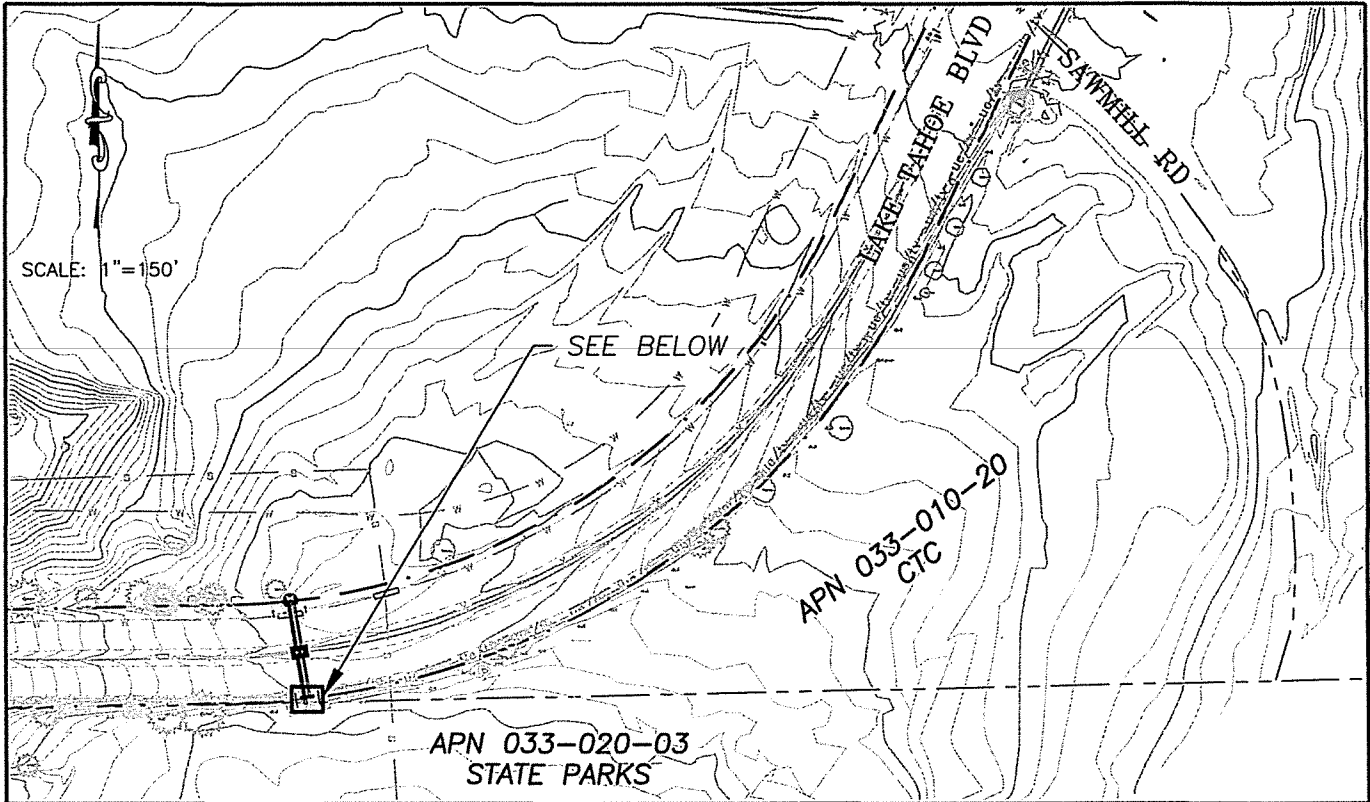
Exhibit A

The land herein referred to is described as follows:

All that certain real property lying in the incorporated area, State of California, El Dorado County, described as follows:

Assessor's Parcel Number
033-010-20

Exhibit B



LEGEND	
---	EDGE OF PAVEMENT
- . -	COUNTY RIGHT OF WAY
---	LOT LINE
---	1' CONTOUR
— ESA — ESA —	TEMP FENCE (TYPE ESA)
---	REINFORCED SILT FENCE



COUNTY OF EL DORADO
COMMUNITY DEVELOPMENT AGENCY
TRANSPORTATION DIVISION

LAKE TAHOE BLVD
EROSION CONTROL/ STREAM
ENVIRONMENT ZONE PROJECT
CTC PARCEL APN 033-010-20

EXHIBIT

CTC-1

DATE: 4/15

PROJECT NO.: 95163/95175

BY: KIS

**California Tahoe Conservancy
Resolution 14-03-05
Adopted: March 20, 2014**

ATTACHMENT 2

California Tahoe Conservancy

Resolution

14-03-05

Adopted: March 20, 2014

LAKE TAHOE BOULEVARD ENHANCEMENT PROJECT SITE IMPROVEMENT GRANT

Staff recommends that the Conservancy make the following findings based on the accompanying staff report pursuant to Public Resources Code section 21000 et seq.:

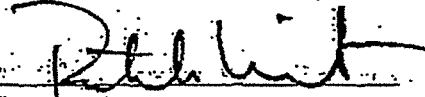
"The California Tahoe Conservancy, in its role as a responsible agency under the California Environmental Policy Act, has independently reviewed and considered the environmental impacts of the Lake Tahoe Boulevard Enhancement Project as described in the El Dorado County's Initial Study and Mitigated Negative Declaration (IS/MND) certified by El Dorado County on June 11, 2013. The Conservancy has independently considered and reached its own conclusions regarding the environmental effects of the proposed project and finds, on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment. The Conservancy incorporates the mitigation measures described in the MND as a condition for approval of the project. The Conservancy hereby directs staff to file a Notice of Determination with the State Clearinghouse for this project."

Staff further recommends that the Conservancy adopt the following resolution pursuant to Government Code section 66907.7:

"The California Tahoe Conservancy hereby authorizes the award of a site improvement grant, up to \$211,613, to El Dorado County for the purposes of constructing the Lake Tahoe Boulevard Enhancement Project. Further, the Conservancy authorizes staff to enter into a grant agreement, and to take all other necessary steps consistent with the accompanying staff recommendation."

I hereby certify that the foregoing is a true and correct copy of the resolution duly and regularly adopted by the California Tahoe Conservancy at a meeting thereof held on the 20th day of March 2014.

In WITNESS THEREOF, I have hereunto set my hand this 20th day of March 2014.



Patrick Wright
Executive Director

Addendum to the Mitigated Negative Declaration

For

**Lake Tahoe Boulevard Enhancement
Erosion Control/ Stream Environment Zone Project**

**Prepared by the California Tahoe Conservancy
4/22/2015**

Addendum to the Mitigated Negative Declaration

For

Lake Tahoe Boulevard Enhancement

Erosion Control/ Stream Environment Zone Project

Prepared by the California Tahoe Conservancy

4/22/2015

El Dorado County Tahoe Engineering Division

State Clearinghouse # 2013032066

BACKGROUND

El Dorado County, acting as the lead agency, prepared an Initial Study (IS) and Mitigated Negative Declaration (MND) for the Lake Tahoe Boulevard Enhancement Project (Project) to comply with CEQA. The County adopted the MND on June 4, 2013, and a Notice of Determination (NOD) was filed with the State Clearinghouse on June 11, 2013.

The Conservancy Board concurred with the MND findings in March 20, 2014 when the erosion control site improvement grant for the Project was authorized, resolution #14-03-05. Conservancy staff has prepared this Addendum to the MND to include the Conservancy owned Assessor Parcel Number (APN) 033-010-20 in the CEQA analysis as the County did not foresee that an existing conveyance pipe that the County would like to remove as part of the Project extends out of the ROW and into this parcel by a few feet, Exhibit 1.

LOCATION

One Conservancy parcel, APN 033-010-20, near the south shore of Lake Tahoe, on the southwest corner of Lake Tahoe Boulevard and Sawmill Road, within the Project area.

The Project area is along Lake Tahoe Boulevard and is generally bordered by D Street/Viking Road to the northeast and Clear View Drive to the southwest.

PROJECT MODIFICATIONS

This Addendum is to add the Conservancy owned APN 033-010-20, on the corner of Lake Tahoe Blvd. and Sawmill Road, to the CEQA analysis as this parcel was not identified in the original environmental document as having any construction disturbance on it as part of the Project. The County assumed that an existing conveyance pipe would be within the County ROW, however, the current plans and surveys show that the existing conveyance pipe extends slightly on to this Conservancy parcel. The County is

requesting access to the parcel to remove the existing pipe and restore the disturbed area with native vegetation.

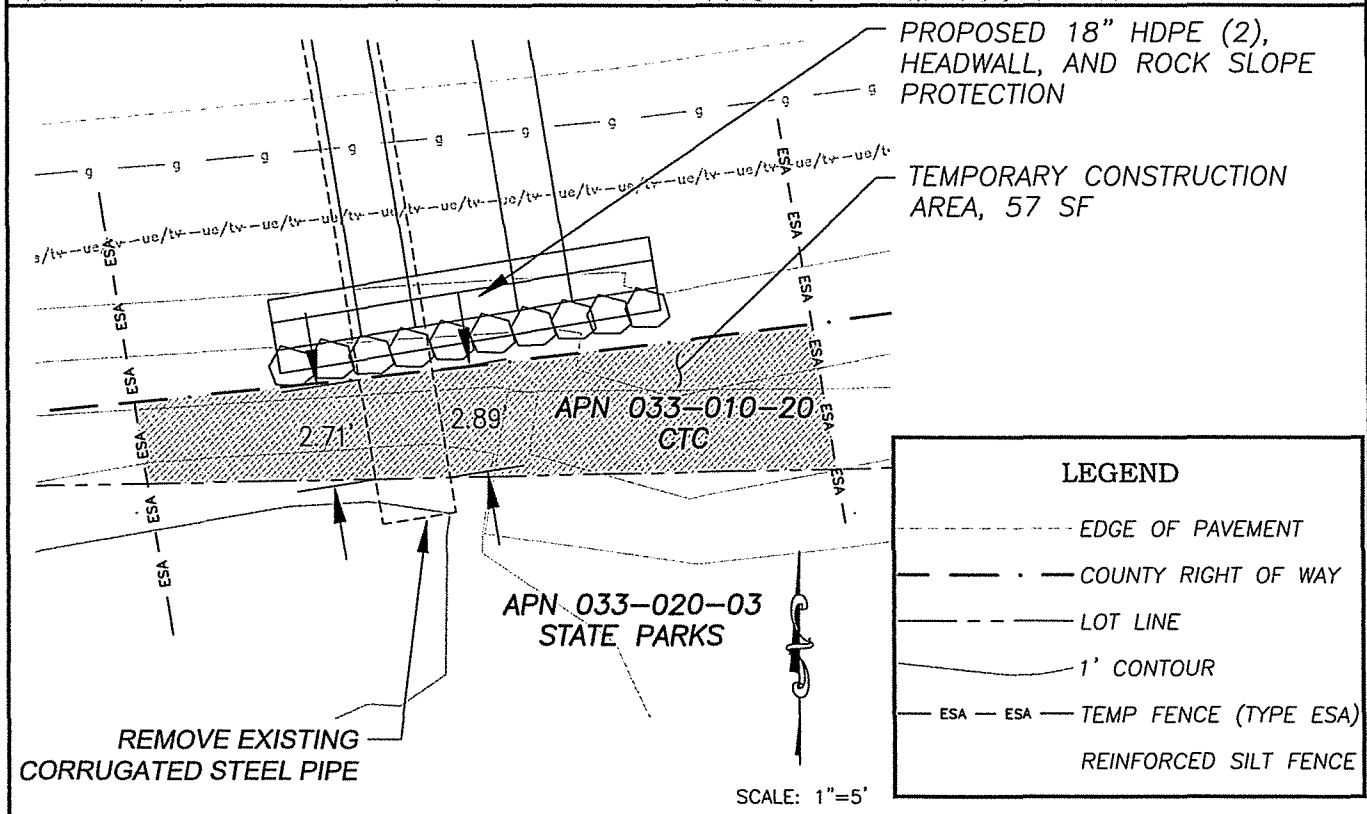
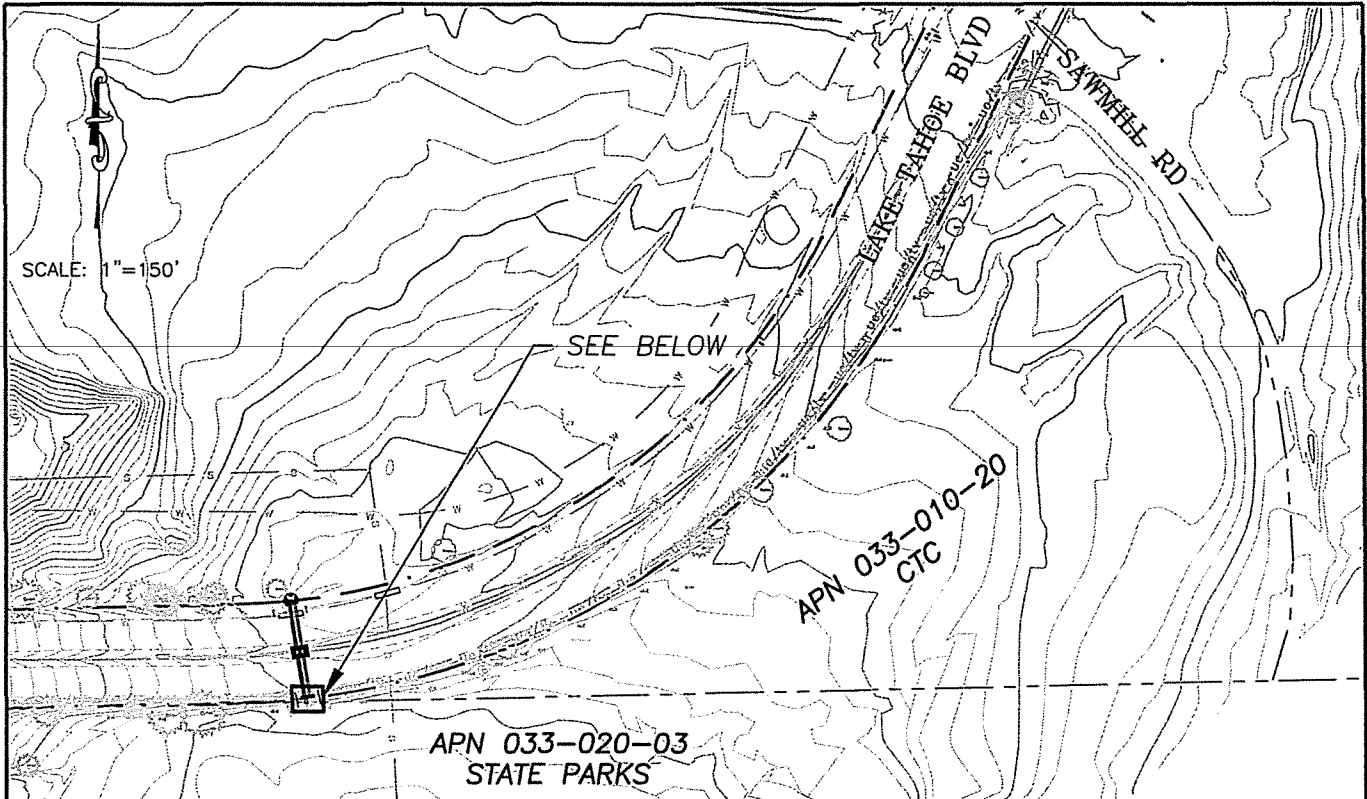
ENVIRONMENTAL ANALYSIS AND FINDINGS/CONCLUSIONS

Pursuant to CEQA Guidelines Section 15162, as applicable to an IS/MND, the Conservancy draws the following conclusions, regarding the Project's water quality improvements on the Conservancy owned parcel APN 033-010-20.

1. The proposed Project will not result in substantial changes that would lead to the identification of new or previously unidentified significant environmental effects that require major revisions of the previous IS/MND.
2. There has been no substantial change with respect to the circumstances under which the Project is being undertaken that would require a major revision of the previous IS/MND due to the involvement of new significant environmental effects.
3. No new information of substantial importance, which was not known and could not have been known with the exercise of diligence at the time the IS/MND was adopted, shows that the Project will have one or more significant effects not discussed in the previous IS/MND. Furthermore, the mitigation measures adopted in the IS/MND remain the same. Based on these findings the Conservancy has concluded that preparation of an Addendum is appropriate in accordance with CEQA Guidelines Section 15164. The Conservancy accordingly approves this Addendum and the associated Project modifications.


Conservancy Representative

4/22/2015
Date



COUNTY OF EL DORADO
COMMUNITY DEVELOPMENT AGENCY
TRANSPORTATION DIVISION

LAKE TAHOE BLVD
EROSION CONTROL/ STREAM
ENVIRONMENT ZONE PROJECT
CTC PARCEL APN 033-010-20

EXHIBIT

CTC-1

DATE: 4/15

PROJECT NO.: 95163/95175

BY: KIS

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

El Dorado County
Community Development Agency
Transportation Division/Tahoe Engineering Grp.
924 B Emerald Bay Road
South Lake Tahoe, CA 96150

Mail Tax Statements to above.
Exempt from Documentary Transfer Tax
Per Revenue and Taxation Code 11922

Above Section For Recorder's Use

Project: Lake Tahoe Blvd Erosion Control/Stream Environment Zone Project (CIP Nos. 95163-95175)
APN: 033-010-20

License Agreement Between the California Tahoe Conservancy and the County of El Dorado for the Lake
Tahoe Blvd Erosion Control/Stream Environment Zone Project to Access Conservancy-Owned Property

SURETY

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of _____

On _____ before me, _____,
(here insert name and title of the officer)

personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)