

**FEDERAL FINANCIAL ASSISTANCE
AWARD OF DOMESTIC GRANT 10-DG-11051900-027
Between The
COUNTY OF EL DORADO
And The
USDA, FOREST SERVICE
LAKE TAHOE BASIN MANAGEMENT UNIT**

Project Title: Round 10 Erosion Control Grant, with the Tahoe Hills, Meyers, Echo View 2, Montgomery Estates 2, Sawmill 2, Christmas Valley 2, and Boulder Mountain Erosion Control Project

Upon execution of this document, an award to County of El Dorado, hereinafter referred to as "the County," in the amount of \$2,175,000, is made under Lake Tahoe Restoration Act, Public Law 106-506 as amended, P.L. 108-108, Section 337. The County accepts this award for the purpose described in the application narrative. Your application for Federal financial assistance, dated June 8, 2010, and the attached U.S. Forest Service provisions, 'U.S. Forest Service Award Provisions,' are incorporated into this letter and made a part of this award.

The County is required to provide a match of 1:1 for the awarded funds.

This is an award of Federal financial assistance and is subject to the Office of Management and Budget (OMB) Circulars A-102, as implemented by USDA regulations 7 CFR 3016, 7 CFR 3015, OMB Circular A-87, and OMB Circular A-133 as implemented by USDA regulation 7 CFR 3052. All Federal and Recipient matching/cost-share contributions are subject to all relevant OMB Circulars.

The OMB Circulars are available on the internet at WWW.WHITEHOUSE.GOV/OMB/GRANTS. Electronic copies of the CFRs can be obtained at the following internet site: WWW.ACCESS.GPO.GOV/NARA/CFR. If you are unable to retrieve these regulations electronically, please contact your Grants and Agreements Office at 530/587-3558 x262.

The following administrative provisions apply to this award:

- A. **LEGAL AUTHORITY**. The County shall have the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- B. **PRINCIPAL CONTACTS**. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.



Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
James W. Ware, P.E. 2850 Fairlane Court Placerville, CA 95667 Telephone: (503) 621-5099 FAX: (530) 626-0387 Email: james.ware@ecdgov.us	Steve Kooyman, P.E. 924 B Emerald Bay Road, South Lake Tahoe, CA 96150 Telephone: (530) 573-7900 FAX: (530) 541-7049 Email: steve.kooyman@edcgov.us

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Contact	U.S. Forest Service Administrative Contact
Barbara Shanley Lake Tahoe Basin Management Unit 35 College Drive South Lake Tahoe, CA 96150 Telephone: (530) 543-2657 FAX: (530) 544-2513 Email: bshanley@fs.fed.us	Karine Wagner Truckee Ranger District 10811 Stockrest Springs Road Truckee, CA 96161 Telephone: (530)-587-3558 x262 FAX: (530) 587-6914 Email: karinewagner@fs.fed.us

- C. ADVANCE AND REIMBURSABLE PAYMENTS – FINANCIAL ASSISTANCE. See provision M. in the attachment, ‘U.S. Forest Service Award Provisions.’
- D. PRE-AWARD COSTS FOR STATE, LOCAL, AND INDIAN TRIBAL GOVERNMENTS Pursuant to OMB Circular A-87, Attachment B, No. 31, pre-award costs incurred as of **April 15, 2010**, are hereby authorized under this instrument.
- E. PROGRAMMATIC CHANGES. The County shall obtain prior approval for any change to the scope of objectives of the approved project, key personnel, or transfer of substantive programmatic work to another party.
- F. MODIFICATIONS. Modifications within the scope of this award shall be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The U.S. Forest Service is not obligated to fund any changes not properly approved in advance.
- G. COMMENCEMENT/EXPIRATION DATE. This award is executed as of the date of the last signature and is effective through **June 30, 2015** at which time it will expire.

ATTACHMENT: U.S. FOREST SERVICE AWARD PROVISIONS

- A. The maximum performance period for a grant award is a total of 5 years from Award date. You will not be able to extend beyond five years for this grant, nor will the County be able to transfer funds from this grant to another project. Any excess funds will be de-obligated by the USDA Forest Service.
- B. Implementation of construction projects under awarded grants are not allowed until a signed project Decision under National Environmental Policy Act has been made that allows the use of federal grant funds for implementation.
- C. The U.S. Forest Service accepts the County's indirect cost rate of **88.63%** as an interim indirect cost rate. The County will submit their request for an approved indirect cost rate to the U.S. Department of Housing and Urban Development in September 2010. This interim rate may be adjusted upon notification of an approved indirect cost rate. Should the County not receive an approved indirect cost rate in a timely manner, the U.S. Forest Service may accept an adjustment to the interim indirect cost rate for future fiscal years. To prevent substantial overpayment or underpayment, this instrument may be revised to retroactively correct the indirect cost rate in accordance with the provision F. Modifications (above).
- D. COLLABORATIVE ARRANGEMENTS. Where permitted by terms of the award, the County may enter into collaborative arrangements with other organizations to jointly carry out activities with grant funds.
- E. NON-LIABILITY. The U.S. Forest Service does not assume liability for any third party claims for damages arising out of this award.
- F. NOTICES. Any notice given by the U.S. Forest Service or the County will be sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the U.S. Forest Service Program Manager, at the address specified in the grant.

To the County, at the County's address shown in the grant or such other address designated within the grant.

Notices will be effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- G. USE OF U.S. FOREST SERVICE INSIGNIA. In order for the County to use the U.S. Forest Service insignia on any published media, such as a webpage, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications. A written request must be submitted and approval granted in

writing by the Office of Communications (Washington Office) prior to use of the insignia.

H. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no United States member of, or United States delegate to, Congress shall be admitted to any share or part of this award, or benefits that may arise therefrom, either directly or indirectly.

I. TRAFFICKING IN PERSONS.

1. Provisions applicable to a Recipient that is a private entity.

a. You as the Recipient, your employees, subrecipients under this award, and subrecipients' employees may not—

- (1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- (2) Procure a commercial sex act during the period of time that the award is in effect; or
- (3) Use forced labor in the performance of the award or subawards under the award.

b. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

- (1) Is determined to have violated a prohibition in paragraph a.1 of this award term; or
- (2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
 - i. Associated with performance under this award; or
 - ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 7 CFR 3017.

2. Provision applicable to a Recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

a. Is determined to have violated an applicable prohibition in paragraph a.1 of this

award term; or

- b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—

- (1) Associated with performance under this award; or
- (2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 7 CFR 3017.

3. Provisions applicable to any recipient.

- a. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
- b. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - (1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - (2) Is in addition to all other remedies for noncompliance that are available to us under this award.
- c. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

4. Definitions. For purposes of this award term:

- a. “Employee” means either:
 - (1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - (2) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- b. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of

subjection to involuntary servitude, peonage, debt bondage, or slavery.

c. "Private entity":

(1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

(2) Includes:

i. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

ii. A for-profit organization.

d. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

J. DRUG-FREE WORKPLACE.

1. The County agree(s) that it will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any project/program that receives federal funding. The statement must

a. Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;

b. Specify the actions the County will take against employees for violating that prohibition; and

c. Let each employee know that, as a condition of employment under any instrument, he or she

(1) Must abide by the terms of the statement, and

(2) Must notify you in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than five calendar days after the conviction.

2. The County agree(s) that it will establish an ongoing drug-free awareness program to inform employees about

a. The dangers of drug abuse in the workplace;

b. Your policy of maintaining a drug-free workplace;

- c. Any available drug counseling, rehabilitation and employee assistance programs;
and
 - d. The penalties that you may impose upon them for drug abuse violations
occurring in the workplace.
3. Without the U.S. Forest Service's expressed written approval, the policy statement
and program must be in place as soon as possible, no later than the 30 days after the
effective date of this instrument, or the completion date of this instrument,
whichever occurs first.
 4. The County agree(s) to immediately notify the U.S. Forest Service if an employee is
convicted of a drug violation in the workplace. The notification must be in writing,
identify the employee's position title, the agreement number of each instrument on
which the employee worked. The notification must be sent to the U.S. Forest Service
within ten calendar days after the County learn(s) of the conviction.
 5. Within 30 calendar days of learning about an employee's conviction, the County
must either
 - a. Take appropriate personnel action against the employee, up to and including
termination, consistent with the requirements of the Rehabilitation Act of 1973
(29 USC 794), as amended, or
 - b. Require the employee to participate satisfactorily in a drug abuse assistance or
rehabilitation program approved for these purposes by a Federal, State or local
health, law enforcement, or other appropriate agency.
- K. ELIGIBLE WORKERS. The County shall ensure that all employees complete the I-9
form to certify that they are eligible for lawful employment under the Immigration and
Nationality Act (8 USC 1324a). The County shall comply with regulations regarding
certification and retention of the completed forms. These requirements also apply to any
contract or supplemental instruments awarded under this award.
- L. FINANCIAL STATUS REPORTING. A Federal Financial Report, form SF-425 (and
Federal Financial Report Attachment SF-425A, if required for reporting multiple grants),
must be submitted semi-annually. The final SF-425 (and SF-425A, if applicable) must be
submitted either with the final payment request or no later than 90 days from the
expiration date of the instrument. These forms may be found at
www.whitehouse.gov/omb/grants_forms.
- M. ADVANCE AND REIMBURSABLE PAYMENTS – FINANCIAL ASSISTANCE.
Advance and Reimbursable payments are approved under this award. Only costs for
those project activities approved in (1) the initial award, or (2) modifications thereto, are
allowable. Requests for payment shall be submitted on Standard Form 270 (SF-270),

Request for Advance or Reimbursement, and shall be submitted no more than monthly. In order to approve a Request for Advance Payment or Reimbursement, the U.S. Forest Service shall review such requests to ensure advances or payments for reimbursement are in compliance and otherwise consistent with OMB, USDA, and U.S. Forest Service regulations. Advance payments shall not exceed the minimum amount needed or no more than is needed for a 30-day period, whichever is less. If the County receive(s) an advance payment and subsequently requests an advance or reimbursement payment, then the request must clearly demonstrate that the previously advanced funds have been fully expended before the U.S. Forest Service can approve the request for payment. Any funds advanced, but not spent, upon expiration of this award shall be returned to the U.S. Forest Service.

The invoice shall be sent to:

USDA Forest Service
Lake Tahoe Basin Management Unit
Attn: Barbara Shanley
35 College Drive
South Lake Tahoe, CA 96150

- N. AWARD CLOSEOUT. The County shall close out the grant within 90 days after expiration or notice of termination.

Any unobligated balance of cash advanced to the County shall be immediately refunded to the U.S. Forest Service, including any interest earned in accordance with 7 CFR 3016.21, 7 CFR 3019.22, or other relevant law or regulation.

Within a maximum of 90 days following the date of expiration or termination of this grant, all financial performance and related reports required by the terms of the award shall be submitted to the U.S. Forest Service by the County.

If this award is closed out without audit, the U.S. Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

- O. PROGRAM PERFORMANCE REPORTS. The County shall monitor the performance of the grant activities to ensure that performance goals are being achieved.

Performance reports shall contain information on the following:

- A comparison of actual accomplishments to the goals established for the period. Where the output of the project can be readily expressed in numbers, a computation of the cost per unit of output may be required if that information is useful.
- Reason(s) for delay if established goals were not met.
- Additional pertinent information including, when appropriate, analysis and explanation

of cost overruns or high unit costs.

The County shall submit semi-annual performance reports. These reports are due 30 days after the reporting period. The final performance report shall be submitted either with the County's final payment request, or separately, but not later than 90 days from the expiration date of the grant.

- P. NOTIFICATION. The County shall immediately notify the U.S. Forest Service of developments that have a significant impact on the activities supported under this grant. Also, notification shall be given in case of problems, delays or adverse conditions that materially impair the ability to meet the objectives of the agreement. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.
- Q. CHANGES IN KEY POSITIONS AND PERSONNEL. Any revision to key positions and personnel identified in the application for this award require prior, written approval from the U.S. Forest Service. All technical positions are considered Key Personnel by the U.S. Forest Service. Failure on the part of the County to obtain prior, written approval when required may result in the disallowance of costs.
- R. FREEDOM OF INFORMATION ACT (FOIA). Public access to grant or agreement records shall not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to "Freedom of Information" regulations (5 U.S.C. 552).
- S. FUNDING EQUIPMENT. Federal funding under this instrument is not available for reimbursement of the County's purchase of equipment. Equipment is defined as having a fair market value of \$5,000 or more per unit and a useful life of over one year. Supplies are those items that are not equipment.
- T. U.S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS, AND ELECTRONIC MEDIA. The County shall acknowledge U.S. Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this award.
- U. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. The County shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)"

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC

20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer."

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

"This institution is an equal opportunity provider."

V. TERMINATION BY MUTUAL AGREEMENT. This award may be terminated, in whole or part, as follows:

- When the U.S. Forest Service and the County agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

- By 30 days written notification by the County to the U.S. Forest Service setting forth the reasons for termination, effective date, and in the case of partial termination, the portion to be terminated.

If, in the case of a partial termination, the U.S. Forest Service determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the U.S. Forest Service may terminate the award in its entirety.

Upon termination of an award, the County shall not incur any new obligations for the terminated portion of the award after the effective date, and shall cancel as many outstanding obligations as possible. The U.S. Forest Service shall allow full credit to the County for the United States Federal share of the non-cancelable obligations properly incurred by the County up to the effective date of the termination. Excess funds shall be refunded within 60 days after the effective date of termination.

W. DISPUTES.

1. Any dispute under this award shall be decided by the Signatory Official. The Signatory Official shall furnish the County a written copy of the decision.
2. Decisions of the Signatory Official shall be final unless, within 30 days of receipt of the decision of the Signatory Official, the County appeal(s) the decision to the U.S. Forest Service's Director, Acquisition Management (AQM). Any appeal made under this provision shall be in writing and addressed to the Director, AQM, USDA, Forest Service, Washington, DC 20024. A copy of the appeal shall be concurrently furnished to the Signatory Official.
3. In order to facilitate review on the record by the Director, AQM, the County shall be given an opportunity to submit written evidence in support of its appeal. No hearing will be provided.

- X. DEBARMENT AND SUSPENSION. The County shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should the County or any of their principals receive a transmittal letter or other official federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.

[END OF PROVISION]