



Staff Report

October 9, 2018

TO: Honorable Mayor and Members of the Town Council

FROM: Britton Snipes, Town Engineer/Public Works Director

DATE: October 9, 2018

RE: Memorandum of Understanding between the Town of Loomis and Placer County Flood Control and Water Consecration District for funding of long term operation and maintenance requirements associated with the Miners Ravine Off-Channel Detention Basin Facility and funding of the Antelope Creek Flood Control Project, Upper Weir.

Recommendation

Adopt Resolution authorizing the Town Manager to execute a Memorandum of Understanding between the Town of Loomis and Placer County Flood Control and Water Consecration District Staff for funding and maintenance agreements relating to the long-term operation and maintenance of the District's completed regional flood control projects within the Dry Creek watershed.

Issue Statement and Discussion

On May 9, 2017 Council directed staff to execute a Memorandum of Understanding between the Town of Loomis and Placer County Flood Control and Water Consecration District for the timing, sequencing and funding of the Antelope Creek Flood Control Project, Upper Weir.

With construction of the Antelope Creek Flood Control Project, Upper Weir (Antelope Facility) now complete, the District has assumed long term operations and maintenance responsibilities for both this facility as well as the Miner Ravine Off-Channel Detention Basin Facility (Miners Facility) completed in 2007. The Placer County Flood Control and Water Conservation District TAC has discussed the need to formalize the long-term funding of operations and maintenance activities of these two Facilities within a Memorandum of Understanding (MOU) between the District and the four member agencies within the Dry Creek watershed where the regional benefits of the projects are realized. Staff have coordinated closely with the benefitting member agencies (Placer County, Roseville, Rocklin and Loomis) to develop the attached MOU entitled "Memorandum of Understanding for the Funding of Long Term Operation and Maintenance Requirements Associated with the Miners Ravine Off-Channel Detention Basin Facility and the Antelope Creek Flood Control Project, Upper Weir".

Per the requirements of the MOU and beginning with the District's Fiscal Year 2019/2020 annual budget, Staff shall itemize and estimate annual costs for its operation and maintenance responsibilities associated with the two Facilities and will detail those estimates within the draft and final fiscal year budget for the District. Based on cost estimates in the final approved annual budget, and further calculated pursuant to the fair share funding method described in the MOU, annual contribution amounts will be invoiced by the District to the four member agencies at the beginning of each fiscal year. The fair share type funding method for calculating annual contributions is as outlined within the District's March 2013 dated Drainage Impact Fee AB 1600 Nexus Study and Operations and Maintenance Plan, Update to the Dry Creek Watershed Flood Control Plan ("Financial Nexus Study") and is based on the

percentage of each member agencies contribution of impervious surface created from new development within the Dry Creek Watershed from 2007 until General Plan buildout. Annual contributions received will be placed within the District's general Operating Fund. The District will then commit to completing all of its operation and maintenance responsibilities identified within the approved budgets each year.

Loomis has been paying for its share of annual O&M costs of the Miners Ravine Off-Channel Detention Basin Facility (8.2% share) for the past 5 years. That annual O&M charge was \$1,996 for FY 18/19. Beginning in FY 19/20 Loomis and the other 3 agencies will begin to also pay for their share of annual O&M costs associated with the Antelope Creek Flood Control Project, Upper Weir. The estimate for annual O&M costs for just the Antelope project next year is now at a total of \$30,000 so at 8.2% Loomis' share would be \$2,460. The Antelope O&M costs for next year are primarily due to truck watering/irrigation tasks to continue establishment of new vegetation and will be refined in the next few months.

As the Antelope Facility lies within lands owned by the City of Roseville and designated as open space, the District and the City wish to clarify and define the specific long term maintenance responsibilities each agency will assume for this Facility going forward. The attached Maintenance Agreement between the District and City has been negotiated, legally reviewed and recommended for approval following discussions with our District TAC. The specific maintenance obligations for the District are primarily restricted to those associated with the physical structure itself and newly planted vegetation. The City assumes obligations for maintenance of the reconstructed multi-purpose trail system, as routinely maintained by City Open Space crews in other portions of the City. The Maintenance agreement also sets specific insurance and indemnification terms and requirements for the two agencies.

CEQA Requirements

There are no CEQA issues involved with this Memorandum of Understanding.

Financial and/or Policy Implications

There will be an increase in Loomis' total O&M share for next year, up from \$1,996 to \$4,456. This cost is anticipated to go down in the following years as the vegetation is established. Funds will come from General Fund – Public Works - Drainage

Attachment

- A. Resolution
- B. MOU

TOWN OF LOOMIS

RESOLUTION NO. 18 - 19

RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOOMIS AUTHORIZING THE TOWN MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING FOR THE FUNDING OF LONG TERM OPERATION AND MAINTENANCE REQUIREMENTS ASSOCIATED WITH THE MINERS RAVINE OFF-CHANNEL DETENTION BASIN FACILITY AND THE ANTELOPE CREEK FLOOD CONTROL PROJECT, UPPER WEIR

WHEREAS, the Town has a MOU with Placer County Flood Control and Water Conservation District to provide regional flood control projects; and

WHEREAS, the Placer County Flood and Water Conservation District constructed the Miner's Ravine and Antelope Creek Flood control projects; and

WHEREAS, both projects will require ongoing maintenance; and

WHEREAS, the Town of Loomis will benefit from the operation of both projects: and

NOW, THEREFORE BE IT RESOLVED, that the Loomis Town Council does hereby authorize the Town Manager to execute the Memorandum of Understanding for the funding of long term operation and maintenance requirements associated with the Miner's Ravine Off Channel Detention Basin and the Antelope Creek Flood Control Project Upper Weir .

PASSED AND ADOPTED this 9th day of October, 2018, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Mayor

ATTEST:

Town Clerk

MEMORANDUM OF UNDERSTANDING

FOR THE FUNDING OF LONG TERM OPERATION AND MAINTENANCE REQUIREMENTS
ASSOCIATED WITH THE MINERS RAVINE OFF-CHANNEL DETENTION BASIN FACILITY AND
THE ANTELOPE CREEK FLOOD CONTROL PROJECT, UPPER WEIR

Placer County Flood Control and Water Conservation District,
City of Rocklin, City of Roseville, Town of Loomis and Placer County

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made effective as of this ____th day of _____, 2018, by and among the Placer County Flood Control and Water Conservation District ("District"), the City of Rocklin ("Rocklin"), the City of Roseville ("Roseville"), the Town of Loomis ("Loomis") and the County of Placer ("County") (collectively the Parties).

1. General Provisions.

A. Purpose. The purpose of this MOU is to establish the terms for the timing, sequencing and funding of long term operation and maintenance requirements associated with the Miners Ravine Off-Channel Detention Basin Facility and the Antelope Creek Flood Control Project, Upper Weir hereinafter referred to as the "Projects".

B. Definitions.

"Annual Contributions" means the annual amount of funds, as estimated and invoiced at the beginning of each fiscal year by the District to each Participant, representing the annualized fair share contribution from each Participant towards the cost of long term operation and maintenance tasks performed for the Projects.

"Antelope Creek Flood Control Project, Upper Weir" means those improvements located and constructed along Antelope Creek as reflected in the final Record Drawings on file with the District entitled "Construction Plans for Placer County Flood Control District Antelope Creek Flood Control Project Upper Weir Roseville, CA."

"Miners Ravine Off-Channel Detention Basin Facility" means those improvements located and constructed along Miners Ravine as reflected in the final Record Drawings on file with the District entitled "Placer County Flood Control and Water Conservation District Improvement Plans for Miners Ravine Off-Channel Detention Basin Facility Roseville, California."

"Party" means the agencies subject to this MOU including the Placer County Flood Control and Water Conservation District, Placer County, the Cities of Roseville and Rocklin and the Town of Loomis.

"Projects" shall mean the Antelope Creek Flood Control Project, Upper Weir and the Miners Ravine Off-Channel Detention Basin Facility.

"Participant(s)" means the County, Rocklin, Roseville and Loomis.

C. Obligations of Participants. Participants shall budget for and make Annual Contributions as further detailed below and according to all provisions of this MOU.

- D. Obligations of District. Beginning with the Fiscal Year 2019/2020 annual budget, the District shall itemize and estimate annual costs for its operation and maintenance responsibilities associated with the Projects and detail those estimates within the draft and final fiscal year budget for the District. The District will distribute the draft version of the annual budget to each of the Participants for review prior to February 1st of each year or as soon as possible thereafter. The final version of the annual budget shall be approved prior to June 30th of each year. Based on those cost estimates in the final approved annual budget, and further calculated pursuant to the fair share funding method described in Section 2 of this Agreement, Annual Contribution amounts will be invoiced by the District to each of the Participants at the beginning of each fiscal year. Payments will be due within forty five (45) calendar days from the date of the invoice. Contributions received will be placed within the District's general Operating Fund. The District will then commit to completing all of its operation and maintenance responsibilities identified within the approved budgets each year.

2. Fair Share Funding Method for Annual Contributions.

- A. The Parties agree to utilize a fair share type funding method for calculating Annual Contributions as outlined within the District's March 2013 *Drainage Impact Fee AB 1600 Nexus Study and Operations and Maintenance Plan, Update to the Dry Creek Watershed Flood Control Plan* ("Financial Nexus Study") and incorporated herein by reference. This Financial Nexus Study estimates the percentage of each Participant's contribution of impervious surface created from new development within the Dry Creek Watershed from 2007 until General Plan buildout. The Projects, in part, provide mitigation for the effects of the impervious surfaces developed by each Participant, and therefore the Parties agree that the use of these percentages most accurately reflects the percentage of responsibility that each Participant should assume toward the cost of operation and maintenance for the Projects on an annual basis.
- B. The table below reflect the percentage for each Participant assigned per the methodology referred to in Section 2A above:

Participant	% Share of Annual Contribution
Placer County	35.6
Roseville	34.1
Rocklin	22.1
Loomis	8.2
TOTAL	100

- C. The Parties agree that any Annual Contributions amounts paid to the District that are not expended within the then current fiscal year will be transferred to the existing capital reserves fund entitled, "Dry Creek Watershed Capital Reserves Fund." This fund was established for District owned and maintained flood control facilities within the Dry Creek Watershed, including these Projects. Funds in the Dry Creek Watershed Capital Reserves Fund are to be utilized for the necessary future replacement of capital improvements associated with District owned and maintained flood control facilities within the Dry Creek Watershed. Funds provided pursuant to this Agreement which are transferred into the Dry

Creek Watershed Capital Reserves Fund will be earmarked solely for expenditure on the Projects. An exception to the transfer requirement above may only be allowed on an annual basis as specifically recommended by the District's Technical Advisory Council (TAC) and approved by the District's Board and may consist of a credit towards the subsequent Annual Contributions calculated for each of the Participants, utilizing the percentage share formula listed in Section 2.B above to determine the amount of the credit.

3. Amendments

This MOU may be amended at any time by a written instrument executed by all of the Parties hereto.

4. Term of MOU; Termination.

This MOU shall remain in full force and effect so long as the Projects remain the responsibility of the District. The Parties agree termination of the MOU may only occur in writing and according to terms found mutually agreeable to all Parties.

5. Entire Agreement.

This MOU is intended as the complete integration of all understandings between the Parties, constitutes the entire agreement between the Parties pertaining to the subject matter contained in it, and supersedes all prior or contemporaneous oral or written agreements, representations, statements, documents, or understandings of the Parties. No prior or contemporaneous addition, deletion, or other amendment shall have any force or effect unless embodied in writing.

6. Notices.

All notices and other communications under this MOU shall be in writing and shall be deemed to have been duly given (i) on the date of delivery, if delivered personally to the Party to whom notice is given, or if made by telecopy directed to the Party to whom notice is to be given at the telecopy number listed below, or (ii) at the earlier of actual receipt or the second business day following deposit in the United States mail, postage prepaid. Notices and other communications shall be directed to the Parties at the addresses shown below:

District: Brian Keating, District Manager
Placer County Flood Control and Water Conservation District
3091 County Center Drive, Suite 220
Auburn, CA 95603

Placer County: Ken Grehm, Director
Placer County Department of Public Works and Facilities
3091 County Center Drive
Auburn, CA 95603

Roseville: Rhon Herndon
Public Works Director
City of Roseville
311 Vernon Street
Roseville, CA 95678

Rocklin: Dave Palmer
City Engineer
City of Rocklin
3970 Rocklin Road
Rocklin, CA 95677

Loomis: Brit Snipes
Public Works Director
Town of Loomis
3665 Taylor Road
Loomis, CA 95650

7. Waiver.

No waiver of any of the provisions of this MOU shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

8. Effect of Captions and Headings.

The captions and headings of this MOU are included for purposes of convenience only, and shall not affect the construction or interpretation of any of its provisions.

9. Counterparts.

This MOU may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10. Severability.

Any provision of this MOU which is determined by a court of competent jurisdiction to be invalid or unenforceable shall be invalid or unenforceable only to the extent of such determination, which shall not invalidate or otherwise render ineffective any other provision of this Agreement, except as necessary to carry out the intent of the Parties in entering into this MOU.

11. Authority.

Each of the persons signing this MOU on behalf of a Party hereto represents that he or she is authorized to sign the MOU on behalf of such Party and that all approvals, resolutions and consents which must be obtained to bind such Party have been obtained that no further approvals, acts or consents are required to bind such Party to this Agreement.

12. Choice of Law.

This agreement is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect. Any legal proceedings on this agreement shall be brought under the jurisdiction of the Superior Court of the County of Placer, State of California. Each Party waives any Federal court removal and/or original jurisdiction rights it may have.

IN WITNESS WHEREOF, the Parties hereto have entered into this MOU effective as of the date first above written.

ATTEST:

PLACER COUNTY FLOOD CONTROL AND WATER
CONSERVATION DISTRICT

By _____

District Secretary

Executive Director

Approved as to Form:

District Counsel

ATTEST:

COUNTY OF PLACER

By _____

Clerk of the Board,

Chief Executive Officer

Placer County

Approved as to Form:

County Counsel

ATTEST:

CITY OF ROCKLIN

A Municipal Corporation

By _____

City Clerk, City of Rocklin

City Manager

Approved as to Form:

City Attorney

ATTEST:

CITY OF ROSEVILLE

A Municipal Corporation

By _____

City Clerk, City of Roseville

City Manager

Approved as to Form:

City Attorney

ATTEST:

Town of Loomis

An Incorporated Township

By _____

Town Clerk, Town of Loomis

Town Manager

Approved as to Form:

Town Attorney
