

MEMORANDUM OF AGREEMENT FOR AN ALTERNATIVE TO A GROUNDWATER SUSTAINABILITY PLAN UNDER THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT FOR MARTIS VALLEY GROUNDWATER BASIN

This Memorandum of Agreement (“MOA”) for preparing and implementing an alternative to a groundwater sustainability plan for the Martis Valley Groundwater Basin pursuant to the Sustainable Groundwater Management Act is entered into by and among the County of Nevada, the County of Placer, the Town of Truckee, the Truckee Donner Public Utility District, the Placer County Water Agency and the Northstar Community Services District, collectively referred to as the “Parties” or each individually as a “Party.” This MOA will take effect as of the date on which all of the Parties have approved this MOA.

RECITALS

- A. The Sustainable Groundwater Management Act (“SGMA”), as amended and codified in California Water Code §§ 10720, *et seq.*, applies to all groundwater basins in the State of California.
- B. The legislative intent of SGMA is to provide sustainable management of groundwater basins, to enhance local management of groundwater, to establish minimum standards for the sustainable groundwater management, and to provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater.
- C. SGMA requires “sustainable groundwater management” for all groundwater basins or sub-basins that are designated as high- or medium-priority basins by the Department of Water Resources (“Department”) in the Department’s report entitled “California’s Groundwater: Bulletin 118” (“Bulletin 118”).
- D. The Martis Valley Groundwater Basin (“MVGB”) is located in both Nevada County and Placer County and has been designated by the Department as Basin No. 6-67 and is currently designated a medium-priority basin.
- E. SGMA defines a “local agency” as a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin. All Parties to this MOA fall within SGMA’s definition of “local agency” for the MVGB.
- F. SGMA provides that any local agency or combination of local agencies overlying a groundwater basin may decide to become a groundwater sustainability agency (“GSA”) for that basin. The decision whether to become a GSA is discretionary under SGMA.
- G. To meet the sustainability goal established under SGMA, SGMA requires that either:
 - (1) a groundwater sustainability plan (“GSP”) be developed and implemented for

- each medium- or high-priority basin by a groundwater sustainability agency; OR (2) if a local agency or combination of local agencies believes that an alternative to a GSP satisfies the objectives of SGMA, the local agency may submit the alternative to the Department for evaluation and assessment no later than January 1, 2017, and every five years thereafter.
- H. Under SGMA, the California Environmental Quality Act (Public Resources Code Section 21000 *et. seq.*) does not apply to the preparation and adoption of a GSP or an alternative to a GSP. *See* Wat. Code § 10728.6.
 - I. Under SGMA, an alternative to a GSP is any of the following: 1) an existing groundwater management plan; or 2) management pursuant to an adjudication action; or 3) an analysis of basin conditions that demonstrates that the basin has operated within its sustainable yield over a period of at least 10 years.
 - J. The Parties are interested in collectively developing and implementing a single alternative to a groundwater sustainability plan to sustainably manage the MVGB pursuant to Water Code section 10733.6.
 - K. All Parties have concluded that the MVGB is a good candidate for an alternative to a GSP because the Truckee River Operating Agreement and existing Federal law restrict and monitor groundwater use in the region, there is an existing groundwater management plan for the MVGB, and the available data shows that the basin has been operated within its sustainable yield over a period of at least 10 years.
 - L. All Parties have concluded that the MVGB can be effectively managed under an alternative to a GSP to achieve SGMA’s objectives and sustainability goal.
 - M. Pursuant to SGMA, the Department has adopted regulations for evaluating groundwater sustainability plans and for evaluating alternatives to groundwater sustainability plans (“Regulations”). *See* 23 C.C.R. §§ 350 *et seq.*
 - N. The Regulations require that the entity that submits an alternative to a GSP shall demonstrate that the alternative applies to the entire basin and satisfies the requirements for an alternative under Water Code Section 10733.6.
 - O. The Regulations require that the entity submitting an alternative to a GSP must explain how the elements of the alternative are functionally equivalent to the elements of a groundwater sustainability plan required by Articles 5 and 7 of Subchapter 2 of Chapter 1.5, Division 2 of Title 23 of the California Code of Regulations.

- P. The Regulations govern the Department's review of alternatives to GSPs and the Department's assessment of an approved alternative at least every five years. The Regulations provide that the Department's assessment of an alternative shall include a determination of the status of the alternative as one of the following: (1) "approved;" or (2) "incomplete;" or (3) disapproved as "inadequate."
- Q. The Parties wish to implement SGMA within the MVGB by entering into this MOA to develop an alternative to a GSP for the MVGB ("Alternative"), and if that Alternative is approved by the Department, to implement the Alternative pursuant to this MOA.
- R. If the submitted Alternative is approved by the Department, the Parties anticipate it could result in a collective savings of approximately \$1,000,000 over the costs of forming a GSA and developing and implementing a GSP.
- S. The Parties intend this MOA to outline the rights, benefits and obligations of the Parties for the development and implementation of the Alternative for the MVGB, with the goal of managing the MVGB effectively, efficiently, fairly and at the lowest reasonable cost and in compliance with SGMA.

THEREFORE, in consideration of the mutual promises set forth below and to implement the goals described above, the Parties agree as follows:

AGREEMENT

Section 1

Declaration of Parties

The Parties hereby elect to develop an Alternative for the Martis Valley Groundwater Basin pursuant to Water Code § 10733.6. The MVGB has been designated a medium-priority basin by the Department and therefore is subject to SGMA's requirements for development of either a groundwater sustainability plan or an alternative to a groundwater sustainability plan. The Parties have concluded that current designation of the MVGB as a medium-priority basin may be unwarranted but the Parties acknowledge that the current designation subjects the basin to certain requirements under the Sustainable Groundwater Management Act. The Parties shall submit the Alternative to the Department no later than January 1, 2017. If the Alternative submitted to the Department is approved by the Department, each Party to the MOA shall implement the Alternative so long as this MOA, as may be amended, remains in effect, and the MVGB continues to be required, by law, to be subject to either an alternative to a GSP or a GSP.

Section 2

Purpose

The primary purposes of this MOA are to (i) establish an agreement between the Parties regarding compliance with SGMA for the MVGB; (ii) develop and submit an Alternative for the MVGB; and (iii) facilitate a cooperative and ongoing working relationship among the Parties to develop and implement an Alternative to sustainably manage the MVGB that complies with the requirements set forth in SGMA. This MOA is intended to provide the management framework for the Alternative and define the roles and obligations of the Parties relative to the development of the Alternative, and if the submitted Alternative is approved by the Department, regarding the implementation of the Alternative.

Section 3

Definitions

The following terms, whether used in the singular or plural, and when used with initial capitalization, shall have the meanings specified herein.

“Administering Manager” is the employee or authorized representative appointed pursuant to Section 6 of this MOA.

“Alternative” is the alternative to a groundwater sustainability plan for the Martis Valley Groundwater Basin that the Parties to this MOA are seeking to develop and have approved by the Department and implement pursuant to Water Code section 10733.6 of SGMA and the applicable Regulations.

“Budget” refers to the budget that has been approved annually by the governing body for each and every Party, for the shared costs of implementation of the Alternative.

“Bulletin 118” means the California Department of Water Resources’ report entitled “California’s Groundwater: Bulletin 118”.

“Confidential Information” includes copyrights, trade secrets, technical information, technology, and any and all other confidential and/or proprietary information provided by one Party to any other Party pursuant to this Memorandum of Agreement, marked or stamped “Confidential Information” on each page of document, relating to, among other items, the research, development, products, processes, business plans, customers, finances, suppliers, and personnel data or related to the business of each Party. Confidential Information shall also include all “non-public personal information” as defined in Title V of the Gramm-Leach-Bliley Act (15 U.S. C. Section 6801, et seq.) and the implementing regulations thereunder (collectively, the “GLB Act”), as the same may be amended from time to time. Confidential Information does not include any information: (1) A Party knew before another Party provided it; (2) which has become publicly known through no wrongful act of Party; (3) a Party developed independently, as evidenced by appropriate documentation; or, (4) of which Party becomes aware from any third person not bound by non-disclosure obligations to Party and with the lawful right to disclose such information. Notwithstanding the foregoing, specific information will not be

deemed to be within the foregoing exceptions merely because it is contained within more general information otherwise subject to such exceptions.

“Department” means the California Department of Water Resources.

“Fiscal Year” means the accounting period of July 1-June 30 for purposes of this MOA.

“Governing Body” or “Legislative Body” means the legislative bodies, i.e. governing boards, of the Parties to this MOA.

“Groundwater” has the same meaning as defined in Section 10721(g) of the California Water Code.

“GSP” refers to a groundwater sustainability plan, and has the same meaning as defined in Section 10721(k) of the California Water Code.

“Martis Valley Groundwater Basin” or “MVGB” means the groundwater basin that is the subject of this MOA, as designated as Basin No. 6-67 by the Department of Water Resources in Bulletin 118.

“Management Committee” refers to the working group created pursuant to Section 5 of this MOA.

“Memorandum of Agreement” or “MOA” means this agreement, as may be amended.

“Parties” refers collectively to the County of Nevada, the County of Placer, the Town of Truckee, the Truckee Donner Public Utility District, the Placer County Water Agency and the Northstar Community Services District. “Party” refers to any of the Parties individually.

“Regulations” refer to the Department of Water Resources’ regulations regarding groundwater management and groundwater sustainability plans, California Code of Regulations Title 23, Division 2, Chapter 1.5, Subchapter 2, as may be amended.

“SGMA” refers to the Sustainable Groundwater Management Act, California Water Code Section 10720 *et seq.*, as may be amended.

Section 4

Parties’ Jurisdictional Boundaries and Legal Authorities

- A. MVGB Boundaries and Parties’ Jurisdictional Boundaries.** A map of the boundaries of the MVGB and each Party’s jurisdictional boundaries relative to the MVGB are depicted on the map attached as Exhibit “A”.
- B. Legal Authorities.** Each Party has legal authority within its jurisdictional boundaries to implement the Alternative for the MVGB, consistent with the Party’s respective statutory and constitutional powers.

Section 5
MVGB Management Committee Membership, Meetings and Duties

A. Committee Membership.

1. The Parties hereby establish the Martis Valley Groundwater Basin Management Committee (“Management Committee”).
2. Each Party shall appoint a member to the Management Committee. Each Party shall appoint an alternate to serve in the member’s capacity when the member is absent or unavailable.
3. Each Management Committee member’s compensation, if any, and reimbursement of expenses for their service on the Management Committee, will be the responsibility of the appointing Party.
4. Each Management Committee member and alternate shall serve at the pleasure of the appointing Party, and may be removed from the Management Committee by the appointing Party at any time. A Party must notify all other Parties and the Administering Manager in writing if that Party has removed and/or replaced their Management Committee member or alternate.

B. Committee Meetings.

1. The Management Committee will establish a meeting schedule for regular meetings to discuss Alternative implementation activities, the status of the MVGB, and ongoing work progress. All meetings of the Management Committee shall be conducted in compliance with the Ralph M. Brown Act, as applicable. See Gov. Code §§ 54950 et seq.
2. At a minimum, the Management Committee shall meet quarterly, at a time and location to be determined by the Management Committee members. The Management Committee members may agree to conduct such meetings by teleconference, at the convenience of the Committee members.
3. At a minimum, the Management Committee will hold at least one meeting annually, that is publicly noticed by each Party, and at which members of the public are provided with an opportunity to provide public comment regarding management of the MVGB.
4. The Management Committee may establish and schedule meetings of subcommittees as they see fit to coordinate development and implementation of the Alternative.
5. Attendance at the Management Committee meetings may be augmented to include staff or consultants to ensure that the appropriate expertise is available.
6. Each Management Committee member will report to the Party that they represent as needed to provide status updates and discuss matters covered in the MOA.

C. Duties.

1. Implementation of the Alternative. The Management Committee shall support execution and implementation of the Alternative. The Management Committee may coordinate activities to the extent those activities are within the scope of activities described in the Alternative approved by each Party's Governing Body.
2. Coordination with the Administering Manager. The Management Committee will strive to coordinate with the Administering Manager regarding implementation of the MOA and management of the MVGB. The Management Committee members may, by the mutual agreement of all of the Management Committee members, direct the Administering Manager to take actions in furtherance of this MOA and the Alternative, consistent with the terms of this MOA and the approved Budget.
3. Discussion of Management Activities. Each Management Committee member will strive to identify and discuss with the Management Committee any activities or plans of the Party they represent that relate to or may affect management the MVGB or implementation of this MOA.
4. Work Plan for the Alternative. After execution of this MOA, the Management Committee, in coordination with the Administering Manager, shall develop a plan, consistent with the approved Budget, that describes the anticipated tasks to be performed under this MOA and a schedule for performing said tasks. Each Management Committee member shall be responsible for sharing the work plan with their appointing Party, for the Party's review and consideration.
5. Annual Reports. The Management Committee shall be responsible, in coordination with the Administering Manager, for overseeing the development and submittal of annual reports to the Department regarding the MVGB, to the extent such annual reports are required by law.
6. Periodic Evaluation and Re-Submittal of Alternative. The Management Committee shall be responsible, in coordination with the Administering Manager, for overseeing the development and submittal of a periodic evaluation and re-submittal of the Alternative to the Department at least every five years, to the extent such periodic evaluations are required by law.
7. Correspondence by the Parties or Members of the Public Regarding the MVGB. The Management Committee shall review and consider any correspondence received by a Party or by the Management Committee regarding the MVGB or management of the MVGB, including complaints or comments submitted by a Party or the public. The Management Committee shall discuss any relevant correspondence received regarding the MVGB at a Management Committee meeting.

Section 6
Appointment and Actions of the Administering Manager

- A. Appointment of Administering Manager.** The Parties hereby initially appoint the Public Information & Conservation Manager of the Truckee Donner Public Utility District, to be the Administering Manager under this MOA. The Parties may change the Administering Manager from time to time by agreement of a majority of the Parties or by agreement of a majority of the Management Committee members. The Party that employs the Administering Manager may elect, upon at least thirty (30) days' notice to the other Parties, to withdraw the services of the Administering Manager.
- B. Compensation for Administering Manager.** The Party that employs the Administering Manager shall initially be responsible for the compensation, if any, of the Administering Manager. If the Party that employs the Administering Manager determines that the role of Administering Manager is too burdensome on the Party, the Party may elect, upon at least thirty (30) days' notice to the other Parties, to withdraw the services of the Administering Manager, or to request that the time of the Administering Manager for services under this MOA is included in the costs for administration of the Alternative within the approved Budget, and is equally shared by all of the Parties. Upon such notice, the Parties or the Management Committee may appoint a new Administering Manager employed by another Party. If no Party agrees to provide the services of an Administering Manager at the Party's own cost, then the costs for the Administering Manager's time in administration of the Alternative will be shared equally by all of the Parties, within the approved Budget.
- C. Actions.** The Administering Manager shall have the authority to take the following actions to the extent they are consistent with the approved Budget, the terms of this MOA, and the adopted Alternative:
1. To serve as the point of contact with the Department regarding the Alternative;
 2. To submit the approved Alternative to the Department;
 3. To submit annual reports regarding implementation of the Alternative and the status of the MVGB to the Department, to the extent required by law;
 4. To submit a periodic assessment and re-submit the Alternative to the Department at least every five (5) years, to the extent required by law;
 5. To determine and pay the costs incurred under this MOA consistent with the terms of this MOA and the approved Budget and to either: (1) receive and deposit funds into a designated Alternative Plan account, separate of the general fund; or (2) to pay for costs up-front and seek reimbursement from the other Parties for such costs paid by the employing Party of Administering Manager;
 6. To make and enter into contracts reasonably necessary to carry out the purpose of this MOA, consistent with the MOA, the approved Budget, and the Alternative.

Any contractual obligations will be pursuant to the policies and procedures of the Procurement and Purchasing regulations of local, state, and federal laws, as applicable to the contracting Party;

7. To contract for legal and/or consulting services, and to employ such other persons or employees, as reasonably necessary for the purpose of this MOA as approved by the Management Committee;
8. To correspond and collaborate regarding the Alternative and management of the MVGB, in furtherance of the Alternative and this MOA;
9. To prepare and distribute invoices to the Parties for the costs and expenses incurred to administer and implement the approved Budget, the terms of this MOA, and the adopted Alternative;
10. To take other actions authorized or directed by the Management Committee, consistent with the terms of this MOA and the approved Budget.

D. Coordination with the Management Committee. The Administering Manager shall coordinate with the Management Committee regarding actions taken regarding implementation of the Alternative. The Administering Manager shall provide quarterly written reports to the Management Committee, providing a summary of the actions taken by the Administering Manager during the preceding quarter regarding implementation of the Alternative.

Section 7

Responsibilities, Cooperation and Communication of the Parties

A. General Responsibilities of the Parties.

1. The Parties will work jointly to meet the objectives of this MOA.
2. The Parties will appoint members and alternates to the Management Committee.
3. The Parties are each responsible for implementing the Alternative in their respective jurisdictional management areas. If any management areas overlap, the Parties agree to be jointly responsible for implementing the Alternative in the overlapping management area(s). Said joint responsibility is not intended nor shall it be construed to delegate or restrict any of the powers or authorities of the Parties.
4. The Parties will coordinate all activities related to fulfillment of the objectives of this MOA. The Parties shall cooperate with one another and work as efficiently as possible in the pursuit of all activities and decisions described in this MOA and those that are not particularly described but which are related to or arise out of the activities that are described.
5. The Parties will participate in public outreach and stakeholder engagement in the development and implementation of the Alternative.
6. The Parties will provide expertise, guidance and data on those matters for which they have specific expertise or authority, as needed to carry out the objectives of this MOA.

7. The Parties will provide support to the Alternative by contributing staff time, information, and facilities within available resources at the sole financial responsibility of each Party, except as otherwise provided for under this MOA.
8. The Parties will be equally responsible for the shared costs and expenses incurred consistent with the approved Budget, the terms of this MOA, and the adopted Alternative, and pay the invoices for such costs and expenses to the Party who employs the Administering Manager within sixty (60) days of receipt of each such invoice.

B. Information to the Management Committee Regarding Actions Related to the

MVGB. Each Party will strive to provide the Management Committee with information regarding activities or plans of the Party, or within the Party's jurisdiction, that relate to or may affect management of the MVGB, the Alternative, or implementation of this MOA.

C. Annual Reports. Each Party will provide relevant data and information, available to the Party and requested by the Management Committee or the Administering Manager, for preparation of any necessary annual report to the Department regarding the MVGB.

D. Periodic Evaluation and Re-Submittal of Alternative. Each Party will provide relevant data **and** information, available to the Party and requested by the Management Committee or the Administering Manager, for preparation of any necessary periodic evaluation and re-submittal of the Alternative to the Department.

E. Ongoing Cooperation. The Parties acknowledge that activities under this MOA will require the frequent interaction between them in order to explore opportunities and resolve issues that arise. The Parties shall work cooperatively and in good faith. The goal of the Parties shall be to preserve flexibility with respect to the implementation of the Alternative in order to maximize the mutual benefits of that Alternative to the Parties.

F. Interagency Communication. To provide for consistent and effective communication between Parties, each Party agrees to designate their Management Committee member as their central point of contact on matters relating to this MOA. Additional representatives may be appointed to serve as point of contact on specific actions or issues.

Section 8

Dispute Resolution

If a dispute arises between any of the Parties regarding this MOA, implementation of the Alternative, or management of the MVGB, the Parties in dispute shall bring any such dispute to the Management Committee and seek resolution of the dispute. If the Management Committee is unable to identify a mutually agreeable resolution of the dispute, the disputing Parties shall participate in mediation, prior to proceeding with any formal legal action against another Party regarding this MOA or the Alternative.

Section 9

Approval of Alternative

A. Governing Body Approval of Alternative. The Parties agree that the Alternative to be submitted to the Department by January 1, 2017, will be considered for approval by each Party's Governing Body prior to that date. The Parties agree that the Alternative will be submitted to the Department after the Alternative is approved by each and every Party's Governing Body.

B. Governing Body Consideration of Revised Alternative, If Necessary Based on Department Review. The Parties acknowledge that the Department may determine that the Alternative is incomplete and that Alternative may need to be revised to address any deficiencies identified by the Department. The Parties agree that if the Alternative is revised to address any such deficiencies, consistent with Section 10.C below, the revised Alternative will be considered for approval by each Party's Governing Body. The Parties agree that any revised Alternative will be submitted to the Department after the revised Alternative is approved by each and every Party's Governing Body.

Section 10

MOA Funding

A. Party's Individual Costs. Each Party shall bear its individual costs related to attendance at meetings, including transportation, payment of staff time and costs and any technical support that the Party wishes to individually utilize regarding preparation and implementation of the Alternative.

B. Costs of Preparing the Alternative. The contractual cost of preparing the Alternative to be submitted by January 1, 2017, is up to \$32,000. The costs for preparing the Alternative, up to \$32,000, will be shared as follows: (1) the County of Placer agrees to be responsible for \$5,000; (2) the Town of Truckee agrees to be responsible for \$5,000; and (3) the Truckee Donner Public Utility District, Placer County Water Agency, and Northstar Community Services District, agree to be equally responsible for the remainder of the costs.

C. Potential Costs to Address Identified Deficiencies with the Alternative. The Parties acknowledge that the Department may determine that the Alternative is incomplete and that there may be additional costs associated with addressing any deficiencies identified by the Department. The Parties agree that if the Department identifies deficiencies with the Alternative, the Management Committee will be responsible for developing a cost estimate for addressing the identified deficiencies. The Parties agree that if the cost estimate for addressing the identified deficiencies is less than \$30,000, then the Parties agree to be equally responsible for the costs to address the deficiencies identified by the Department. The Parties agree that if the cost estimate to address identified deficiencies exceeds \$30,000, then the Management Committee will be responsible for developing a recommendation regarding how to proceed with compliance with the Sustainable Groundwater Management Act and each Party's Governing Body will have the opportunity to make a decision regarding how to proceed with SGMA compliance.

D. Budgets and Cost Sharing for Alternative Implementation.

1. Cost Sharing for Implementation. The Parties acknowledge that there will be costs associated with implementation of the Alternative that should be shared by the Parties. These costs include but are not limited to, costs incurred in hiring outside consultants or attorneys related to preparation of annual reports and periodic assessments for the Alternative. The Parties agree that for these shared implementation costs, each Party will be equally responsible for the shared implementation costs, consistent with the approved Budget.
2. Budget for January 1, 2017 – June 30, 2018 Period. The total Budget for shared implementation costs for the period following submittal of the Alternative to the Department by January 1, 2017 through the Fiscal Year ending June 30, 2018 (Fiscal Year 2017) is \$30,000.00. Each of the six Parties agrees to contribute \$5,000.00 for Fiscal Year 2017 within sixty (60) days following receipt of invoice from the Administering Manager. The Budget for Fiscal Year 2017 is intended to cover any shared implementation costs, including but not limited to consultant or legal costs, associated with preparation of the annual implementation report submitted to DWR, if required.
3. Future Budgets. At least ninety (90) days prior to the commencement of each Fiscal Year, the Management Committee in coordination with the Administering Manager, shall prepare a proposed annual budget for shared implementation of the Alternative, including retention of all necessary consultants, annual reporting, and periodic assessments of the Alternative. The Parties agree that once this proposed budget is completed, each Party may need to return to its respective Governing Body for funding authorization. The Parties agree to do so within sixty (60) days of receipt of the proposed budget. After adoption of the Budget by each and every Party's governing body, the Administering Manager will be authorized to make expenditures on behalf of the Parties consistent with the approved Budget.

4. Expenditures and Funding. The Party employing the Administering Manager shall be the depository and shall have custody of all funds received pursuant to this MOA, from whatever source. The Party employing Administering Manager shall maintain a separate accounting of all the costs and expenditures made for the shared costs of implementation of the Alternative, consistent with the approved Budget, and may either: (1) seek reimbursement from the Parties for their share of those costs, if paid in advance by the Party employing the Administering Manager; or (2) may request that the Parties provide funds for the budgeted shared costs of implementation and deposit those funds in an account separate from the employing Party's general fund. The Parties shall provide funding consistent with approved Budget within sixty (60 days) of receipt of an invoice or request for funding from the Administering Manager. Each and every Party has the right to request and receive an accounting of deposits and expenditures within ten (10) days of providing a written request to the Administering Manager.

Section 11

Notice

All notices, statements, or payments related to implementing the objectives of this MOA shall be deemed to have been duly given if given in writing and either delivered personally or mailed by first-class, registered or certified mail as follows:

If notice if given to the County of Nevada, it shall be given at the following address:

County of Nevada
Environmental Health Department
Attn: Director of Environmental Health
950 Maidu Avenue
Nevada City, CA 95959

If notice is given to the County of Placer, it shall be given at the following address:

County of Placer
Placer County Public Works and Facilities
Attn: Director of Public Works and Facilities
3091 County Center Drive, Suite 220
Auburn, CA 95603

If notice is given to the Town of Truckee, it shall be given at the following address:

Town of Truckee
Attn: Town Manager
10183 Truckee Airport Rd
Truckee, CA 96161

If notice is given to the Truckee Donner Public Utility District, it shall be given at the following address:

Truckee Donner Public Utility District
Attn: General Manager
11570 Donner Pass Road
Truckee, CA 96161

If notice is given to the Placer County Water Agency, it shall be given at the following address:

Placer County Water Agency
Attn: General Manager
PO Box 6570
Auburn, CA 95604

If notice is given to the Northstar Community Services District, it shall be given at the following address:

Northstar Community Services District
Attn: General Manager
900 Northstar Drive
Truckee, CA 96161

If notice or payment is given to the Administering Manger, it shall be given at the following address:

Truckee Donner Public Utility District
Attn: Public Information & Conservation Manager
11570 Donner Pass Road
Truckee, CA 96161

Section 12

Confidentiality

The Parties hereto acknowledge that information obtained about the other Parties pursuant to this MOA may include information that the providing Party deems to be confidential and proprietary information (hereinafter the “Confidential Information”). If a Party provides information that the Party has labeled as “Confidential Information,” then each Party agrees not to use the Confidential Information except in accordance with the terms of this MOA, and not to disclose the Confidential Information to any third parties without the prior

written consent of the other Party, consistent with Section 13 below, except as required by law. These obligations of confidentiality shall survive the termination of this MOA.

Section 13

Compliance with Public Records Law

All information relating to this MOA will be disclosed upon receipt of a request for disclosure pursuant to the California Public Records Act; provided, however, that if any information is set apart and clearly marked “Confidential Information” pursuant to Section 12, above when it is provided to any Party, the Party subject to the request shall give notice to other Parties of any request for disclosure of such information. The Party who provided the Confidential Information that is the subject of the request shall then have five (5) days from the date it receives such notice to determine if it wants the Confidential Information to be withheld from disclosure and to notify the Party who received the request of that determination. If the Party who provided the Confidential Information requests that the information be withheld from disclosure, then that Party shall be responsible for the defense of, and complete indemnification and reimbursement for all costs (including plaintiff’s attorney fees) incurred by any Party in any legal action to compel the disclosure of such information under the California Public Records Act. The Party who originally labeled the information as “Confidential Information” shall have sole responsibility for defense of the actual “Confidential” designation of such information.

The Parties understand and agree that any failure by a Party to respond to the notice provided by any other Party, and/or to enter into an agreement with any or all other Parties, in accordance with this Section, shall constitute a complete waiver by said Party of any rights regarding the information designated “Confidential” by the Party, and the other Parties shall disclose such information pursuant to applicable procedures required by the Public Records Act.

Section 14

Books of Record and Audit Provision

The Administering Manager shall maintain the records of the expenses incurred, costs paid, and funds received relating to this MOA for a period of five (5) years after the generation or receipt of said records by the Administering Manager. Said records shall be maintained in sufficient detail to establish the accuracy of charges and corresponding calculations regarding shared costs pursuant to this MOA. The Administering Manager shall permit any Party to audit said records. Said audit may be conducted on Administering Manager’s premises, upon fifteen (15) days’ notice to the Administering Manager.

Section 15

General Provisions

A. Termination.

1. This MOA may be terminated upon unanimous written consent of all the Parties. No Party or its Governing Body may unilaterally terminate this MOA.
2. This MOA is terminated if: (a) the Department determines that the Alternative is incomplete and the Parties decide not to submit a new or revised Alternative to the Department for approval, consistent with Sections 9.B and 10.C, above; OR (b) the Department determines that the Alternative is inadequate and the Department disapproves the Alternative; OR (c) if, pursuant to law, the MVGB is no longer required to be subject to either an alternative to a GSP or a GSP.
3. If this MOA is terminated, each Party shall remain obligated to pay its share of expenses and obligations as outlined in the approved Budget, incurred or accrued up to the date the MOA is terminated.

B. Withdrawal.

1. A Party may unilaterally withdraw from this MOA without causing or requiring termination of the MOA, effective upon thirty (30) days written notice to the remaining Parties' designated addresses as listed in Section 11. A Party that has withdrawn from this MOA shall remain obligated to pay its share of expenses and obligations as outlined in the approved Budget and incurred or accrued up to the date the Party provided notice of withdrawal.
2. Before providing notice of withdrawal from this MOA, each Party agrees to bring any disputes related to this MOA to the Management Committee in writing. If the Management Committee is unable to resolve the dispute, each Party agrees to participate in mediation prior to providing notice of withdrawal from this MOA.

C. Amendment. This MOA may be amended only by a subsequent writing, approved and signed by all Parties. Approval from a Party is valid only after the Party's Governing Body approves the amendment at a public meeting.

D. Assignment. No rights and obligations of any of the Parties under this MOA may be assigned or delegated without the express prior written consent of all the other Parties and any attempt to assign or delegate such rights or obligations without such consent shall be null and void.

E. Indemnification. No Party, nor any officer or employee of a Party, or the Administering Manager, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by another Party or the Administering Manager under or in connection with this MOA. The Parties further agree, pursuant to California Government Code section 895.4, that each Party shall

fully indemnify and hold harmless each other Party and its agents, officers, employees and contractors from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with any work delegated to or action taken or omitted to be taken by such Party or the Administering Manager under this MOA.

- F. Term of MOA.** The term of this MOA is indefinite and will cease existence only upon termination of the MOA pursuant to subsection A.
- G. Signatories' Authority.** The signatories to this MOA represent that they have the authority to execute this MOA and to bind the Party on whose behalf they execute this MOA.
- H. Choice of Law.** This MOA is made in the State of California, under the Constitution and laws of such State and is to be so construed.
- I. Severability.** If any provision of this MOA is determined to be invalid or unenforceable, the remaining provisions will remain in force and unaffected to the fullest extent permitted by law and regulation.
- J. Entire Agreement.** This MOA constitutes the sole, entire, integrated and exclusive agreement between the Parties regarding the contents herein. Any other contracts, agreements, terms, understanding, promises or representations not expressly set forth or referenced in this writing are null and void and of no force and effect.
- K. Construction and Interpretation.** The Parties agree and acknowledge that this MOA has been developed through negotiation, and that each Party has had a full and fair opportunity to revise the terms of this MOA. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this MOA.
- L. Execution in Counterparts.** The Parties intend to execute this MOA in counterparts and on separate signature pages.

COUNTY OF NEVADA

DATED: _____

BY: _____

Title:

Name:

COUNTY OF PLACER

DATED: _____

BY: _____

Title:

Name:

CITY OF TRUCKEE

DATED: _____

BY: _____

Title:

Name:

TRUCKEE DONNER PUBLIC UTILITY DISTRICT

DATED: _____

BY: _____

Title:

Name:

PLACER COUNTY WATER AGENCY

DATED: _____

BY: _____

Title:

Name:

NORTHSTAR COMMUNITY SERVICES DISTRICT

DATED: _____

BY: _____

Title:

Name:

EXHIBIT “A”

