

**Sierra County
Board of Supervisors'
Agenda Transmittal &
Record of Proceedings**

MEETING DATE: September 15, 2020	TYPE OF AGENDA ITEM: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Timed <input type="checkbox"/> Consent
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DEPARTMENT: Board of Supervisors
APPROVING PARTY: Van Maddox, Auditor/Heather Foster, COB
PHONE NUMBER: 530-289-2879

AGENDA ITEM: Report/update by the Sierra County Firesafe and Watershed Council and approval of amendment to Master Agreement No. 2012-111 for funding Firewise Community Projects to be undertaken by the Sierra County Firesafe and Watershed Council.

SUPPORTIVE DOCUMENTS ATTACHED: Memo Resolution Agreement Other
See attached agreement

BACKGROUND INFORMATION: On September 1, 2020 the Board requested an update by the Sierra County Firesafe and Watershed Council and directed staff to draft an amendment to the Master Funding Agreement for the Sierra County Firesafe and Watershed Council in order to broaden the scope of services and duties to include the development of community wildfire protection plans.

FUNDING SOURCE:
GENERAL FUND IMPACT: No General Fund Impact
OTHER FUND:
AMOUNT: \$ N/A

ARE ADDITIONAL PERSONNEL REQUIRED?
 Yes, -- --
 No

IS THIS ITEM ALLOCATED IN THE BUDGET? Yes No
IS A BUDGET TRANSFER REQUIRED? Yes No

SPACE BELOW FOR CLERK'S USE

BOARD ACTION:
 Approved
 Approved as amended
 Adopted
 Adopted as amended
 Denied
 Other
 No Action Taken

Set public hearing
For: _____
 Direction to: _____
 Referred to: _____
 Continued to: _____
 Authorization given to:

Resolution 2020- _____
Agreement 2020- _____
Ordinance _____
Vote:
Ayes:
Noes:
Abstain:
Absent:
 By Consensus

COMMENTS:

CLERK TO THE BOARD

DATE

**AMENDMENT TO MASTER AGREEMENT FOR FUNDING FIREWISE
COMMUNITY PROJECTS TO BE UNDERTAKEN BY THE SIERRA COUNTY
FIRESAFE AND WATERSHED COUNCIL**

The following is an amendment to that certain Agreement No. 2012-111 (“Agreement”) with an Effective Date of September 15, 2020, by and between the County of Sierra, a political subdivision of the State of California (“the County”) and Sierra County Firesafe and Watershed Council, a California non-profit corporation “Contractor”.

1. Attachment A. section A.1 of the Agreement is hereby amended as follows:

A.1 SCOPE OF SERVICES AND DUTIES.

The services to be provided by COUNCIL and the scope of COUNCIL's duties include the following:

COUNCIL shall undertake and complete projects that are consistent with the use of Title III funding, as provided to the County under the provisions of the reauthorized Secure Rural Schools. and Community Self-Determination Act (Public Law 110-343), which carry out activities under the Firewise Communities program to carry out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires; to develop and carry out community wildfire protection plans in coordination with the appropriate Secretary concerned.

Under this Master Agreement, COUNCIL shall submit specific proposals to the COUNTY for projects that carry out activities under the Firewise Communities program. Projects to be funded must be consistent with the intent for use of Title III funds as generally addressed in the Report to the Committee on Energy and Natural Resources, U.S. Senate, by the United States Government Accountability Office- GAO Report 12-77 5 (GAO-12-77 5). Project specific proposals describing the proposed activities and containing a budget shall be submitted to the County Auditor for review as to whether the project is appropriate for use of Title III funds, and if approved by the Auditor, the project proposal shall be submitted to the Board of Supervisors for their consideration. Action by the Board approving any specific project shall require approval of an Addendum to this Master Agreement which shall be substantially in the form as shown in Exhibit "A", as attached hereto.

2. This Amendment shall have an Effective Date of September 15, 2020

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

COUNTY OF SIERRA

“CONTRACTOR”

JIM BEARD
Chairman, Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

HEATHER FOSTER
Clerk of the Board

DAVID PRENTICE
County Counsel

**MASTER AGREEMENT FOR FUNDING FIREWISE COMMUNITY
PROJECTS TO BE UNDERTAKEN BY THE SIERRA COUNTY
FIRESAFE AND WATERSHED COUNCIL**

THIS MASTER AGREEMENT ("Agreement") dated September 4, 2012, is made and entered into by and between the County of Sierra, a political subdivision of the State of California (the "COUNTY"), and the Sierra County Firesafe and Watershed Council, a California non-profit corporation, (the "COUNCIL"), for the purpose of carrying out activities under the Firewise Communities program to provide to homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires, which activities are to be undertaken by the COUNCIL on private properties within Sierra County, for the purpose of enhancing fire safety to the COUNTY and its residents.

In consideration of the services to be rendered, the sums to be paid, and each and every covenant and condition contained herein, the parties hereto agree as follows:

OPERATIVE PROVISIONS

1. SERVICES.

The COUNCIL shall provide those services described in Attachment "A", Provision A-1. COUNCIL shall provide said services at the time, place and in the manner specified in Attachment "A", Provisions A-2 through A-3.

2. TERM.

Commencement Date: September 4, 2012

Termination Date: December 31, 2014

3. PAYMENT.

COUNTY shall pay COUNCIL for services rendered pursuant to this Agreement at the time and in the amount set forth in Attachment "B". The payment specified in Attachment "B" shall be the only payment made to COUNCIL for services rendered pursuant to this Agreement. COUNCIL shall submit all billings for said services to COUNTY in the manner specified in Attachment "B".

4. FACILITIES, EQUIPMENT AND OTHER MATERIALS AND OBLIGATIONS OF COUNTY.

COUNCIL shall, at its sole cost and expense, furnish all facilities, equipment, and other materials which may be required for furnishing services pursuant to this Agreement, except as provided in this paragraph. COUNTY shall furnish COUNCIL only those facilities, equipment, and other materials and shall perform those obligations listed in Attachment "A".

5. ADDITIONAL PROVISIONS.

Those additional provisions unique to this Agreement are set forth in Attachment "C".

6. GENERAL PROVISIONS.

The general provisions set forth in Attachment "D" are part of this Agreement. Any inconsistency between said general provisions and any other terms or conditions of this Agreement shall be controlled by the other terms or conditions insofar as the latter are inconsistent with the general provisions.

7. DESIGNATED REPRESENTATIVES.

Van Maddox is the designated representative of the COUNTY and will administer this Agreement for the COUNTY. Mike Freschi is the authorized representative for COUNCIL. Changes in designated representatives shall occur only by advance written notice to the other party.

8. ATTACHMENTS.

All attachments referred to herein are attached hereto and by this reference incorporated herein. Attachments include:

- Attachment A - Services
- Attachment B - Payment
- Attachment C - Additional Provisions
- Attachment D - General Provisions
- Attachment E - Form of Invoice

9. AGREEMENT DATE.

The Agreement Date is September 4, 2012

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day here first above written.

"COUNTY"

By 
PETER HUEBNER, CHAIRMAN

"COUNCIL"


MICHAEL FRESCHI

TAXPAYER I.D. NUMBER

ATTEST:


HEATHER FOSTER
Clerk of the Board

APPROVED AS TO FORM:


JAMES A. CURTIS
County Counsel

ATTACHMENT A

A.1 SCOPE OF SERVICES AND DUTIES.

The services to be provided by COUNCIL and the scope of COUNCIL's duties include the following:

COUNCIL shall undertake and complete projects that are consistent with the use of Title III funding, as provided to the County under the provisions of the reauthorized Secure Rural Schools and Community Self-Determination Act (Public Law 110-343), which carry out activities under the Firewise Communities program to provide homeowners in fire-sensitive ecosystems education on, and assistance with implementing, techniques in home siting, home construction, and home landscaping that can increase the protection of people and property from wildfires.

Under this Master Agreement, COUNCIL shall submit specific proposals to the COUNTY for projects that carry out activities under the Firewise Communities program. Projects to be funded must be consistent with the intent for use of Title III funds as generally addressed in the Report to the Committee on Energy and Natural Resources, U.S. Senate, by the United States Government Accountability Office – GAO Report 12-775 (GAO-12-775). Project specific proposals describing the proposed activities and containing a budget shall be submitted to the County Auditor for review as to whether the project is appropriate for use of Title III funds, and if approved by the Auditor, the project proposal shall be submitted to the Board of Supervisors for their consideration. Action by the Board approving any specific project shall require approval of an Addendum to this Master Agreement which shall be substantially in the form as shown in Exhibit "A", as attached hereto.

A.2. TIME SERVICES RENDERED.

Work will begin immediately upon execution of this Agreement by the County. Thereafter, COUNCIL shall perform services in a diligently and timely manner. All project work must be completed December 31, 2014.

A.3. MANNER SERVICES ARE TO BE PERFORMED.

As an independent COUNCIL, COUNCIL shall be responsible for providing services and fulfilling obligations hereunder in a professional manner. COUNTY shall not control the manner of performance.

A.4. FACILITIES FURNISHED BY COUNTY.

(None)

Exhibit "A"

**ADDENDUM TO MASTER AGREEMENT
FOR FIREWISE COMMUNITY PROJECT**

This Addendum Agreement is made for the purpose of implementing a Firewise Community Project referred to as _____, consisting of the following activities:
(Detailed project description required – attach exhibit if needed)

WHEREAS, in accordance with the provisions of the **Master Agreement For Funding Firewise Community Projects To Be Undertaken By The Sierra County Firesafe And Watershed Council**, referenced as Sierra County Agreement No. 2012-108, the Fire Safe & Watershed Council (Council) is proposing to use and expend Title III funds to undertake the above project in a manner that is consistent with the funding provisions under the reauthorized Secure Rural Schools and Community Self-Determination Act (Public Law 110-343), and

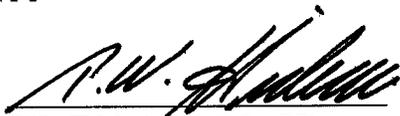
WHEREAS, the Council has provided a budget for the proposed fuel reduction program as attached hereto.

NOW THEREFORE, based on the foregoing the Board of Supervisors hereby authorizes the expenditure of funds in accordance with the attached budget for the above referenced project.

"COUNTY"

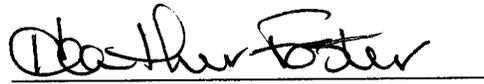
"COUNCIL"

By


CHAIRMAN OF BOARD


MIKE FRESCHI

ATTEST:


HEATHER FOSTER
Clerk of the Board

ATTACHMENT B

PAYMENT

COUNTY shall pay COUNCIL as follows:

B.1 BASE CONTRACT FEE.

COUNTY shall provide funding to the COUNCIL for the specific fuel removal projects to be undertaken in accordance with a budget for each project, as approved by COUNTY, which budget shall be submitted for COUNTY review and approval as an Addendum to this Master Agreement. Any such budget shall reflect all costs to be reasonably incurred as part of the specific fuel removal project. In addition to the specific costs for each project, COUNCIL shall be entitled to an administrative fee not to exceed ten percent (10%) of the costs of each project, which fee shall compensate COUNCIL for identifying, planning, negotiating and administering the individual fuel removal projects and the contracts pertaining thereto.

B.2 REPORTS

Within sixty(60) days of the completion of each Firewise Community project as approved by an Addendum to this Master Agreement, COUNCIL shall file a written report with the County Board of Supervisors detailing the work accomplished and providing a final and detailed accounting of all funds expended for each specific project.

B.3 MAXIMUM FUNDING

In no event shall the funding under this Agreement exceed the sum of \$56,070.00.

ATTACHMENT C

(None)

ATTACHMENT D

GENERAL PROVISIONS

D.1 INDEPENDENT COUNCIL. For all purposes arising out of this Agreement, COUNCIL shall be an independent COUNCIL and COUNCIL and each and every employee, agent, servant, partner, and shareholder of COUNCIL (collectively referred to as "The COUNCIL") shall not be, for any purpose of this Agreement, an employee of COUNTY. Furthermore, this Agreement shall not under any circumstance be construed or considered to be a joint powers agreement as described in *Government Code* Section 6000, et seq., or otherwise. As an independent COUNCIL, the following shall apply:

D.1.1 COUNCIL shall determine the method, details and means of performing the services to be provided by COUNCIL as described in this Agreement.

D.1.2 COUNCIL shall be responsible to COUNTY only for the requirements and results specified by this Agreement and, except as specifically provided in this Agreement, shall not be subject to COUNTY's control with respect to the physical actions or activities of COUNCIL in fulfillment of the requirements of this Agreement.

D.1.3 COUNCIL shall be responsible for its own operating costs and expenses, property and income taxes, workers' compensation insurance and any other costs and expenses in connection with performance of services under this Agreement.

D.1.4 COUNCIL is not, and shall not be, entitled to receive from or through COUNTY, and COUNTY shall not provide or be obligated to provide the COUNCIL with workers' compensation coverage, unemployment insurance coverage or any other type of employee or worker insurance or benefit coverage required or provided by any federal, state or local law or regulation for, or normally afforded to, any employee of COUNTY.

D.1.5 The COUNCIL shall not be entitled to have COUNTY withhold or pay, and COUNTY shall not withhold or pay, on behalf of the COUNCIL any tax or money relating to the Social Security Old Age Pension Program, Social Security Disability Program or any other type of pension, annuity or disability program required or provided by any federal, state or local law or regulation for, or normally afforded to, an employee of COUNTY.

D.1.6 The COUNCIL shall not be entitled to participate in, or receive any benefit from, or make any claim against any COUNTY fringe benefit program including, but not limited to, COUNTY's pension plan, medical and health care plan, dental plan, life insurance plan, or other type of benefit program, plan or coverage designated for, provided to, or offered to COUNTY's employees.

D.1.7 COUNTY shall not withhold or pay on behalf of COUNCIL any federal, state or local tax including, but not limited to, any personal income tax owed by COUNCIL.

D.1.8 The COUNCIL is, and at all times during the term of this Agreement shall represent and conduct itself as, an independent COUNCIL and not as an employee of COUNTY.

D.1.9 COUNCIL shall not have the authority, express or implied, to act on behalf of, bind or obligate the COUNTY in any way without the written consent of the COUNTY.

D.2 LICENSES, PERMITS, ETC. COUNCIL represents and warrants to COUNTY that it has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for COUNCIL to practice its profession. COUNCIL represents and warrants to COUNTY that COUNCIL shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for COUNCIL to practice its profession at the time the services are performed.

D.3 CHANGE IN STATUTES OR REGULATIONS. If there is a change of statutes or regulations applicable to the subject matter of this Agreement, both parties agree to be governed by the new provisions, unless either party gives notice to terminate pursuant to the terms of this Agreement.

D.4 TIME. COUNCIL shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for the satisfactory performance of COUNCIL's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by any cause, present or future, which is beyond the reasonable control of the party.

D.5 INSURANCE.

D.5.1 Prior to rendering services provided by the terms and conditions of this Agreement, COUNCIL shall acquire and maintain during the term of this Agreement insurance coverage through and with an insurer acceptable to COUNTY, naming the COUNTY and COUNTY's officers, employees, agents and independent COUNCILs as additional insured (hereinafter referred to as "the insurance"). The insurance shall contain the coverage indicated by the checked items below.

D.5.1.1 Comprehensive general liability insurance including comprehensive public liability insurance with minimum coverage of One Million Dollars (\$1,000,000) per occurrence and with not less than One Million Dollars (\$1,000,000) aggregate; COUNCIL shall insure both COUNTY and COUNCIL against any liability arising under or related to this Agreement.

D.5.1.2 During the term of this Agreement, COUNCIL shall maintain in full force and effect a policy of professional errors and omissions insurance with policy limits of not less than One Million Dollars (\$1,000,000) per incident and One Million Dollars (\$1,000,000) annual aggregate, with deductible or self-insured portion not to exceed Two Thousand Five Hundred Dollars (\$2,500).

D.5.1.3 Comprehensive automobile liability insurance with minimum coverage of One Hundred Thousand Dollars (\$100,000) per occurrence and with not less than One Hundred Thousand Dollars (\$100,000) on reserve in the aggregate, with combined single limit including owned, non-owned and hired vehicles.

D.5.1.4 Workers' Compensation Insurance coverage for all COUNCIL employees and other persons for whom COUNCIL is responsible to provide such insurance coverage, as provided by Division 4 and 4.5 of the *Labor Code*.

D.5.2 The limits of insurance herein shall not limit the liability of the COUNCIL hereunder.

D.5.3 In respect to any insurance herein, if the aggregate limit available becomes less than that required above, other excess insurance shall be acquired and maintained immediately. For the purpose of any insurance term of this Agreement, "aggregate limit available" is defined as the total policy limits available for all claims made during the policy period.

D.5.4 The insurance shall include an endorsement that no cancellation or material change adversely affecting any coverage provided by the insurance may be made until twenty (20) days after written notice is delivered to COUNTY.

D.5.5 The insurance policy forms, endorsements and insurer(s) issuing the insurance shall be satisfactory to COUNTY at its sole and absolute discretion. The amount of any deductible payable by the insured shall be subject to the prior approval of the COUNTY and the COUNTY, as a condition of its approval, may require such proof of the adequacy of COUNCIL's financial resources as it may see fit.

D.5.6 Prior to COUNCIL rendering services provided by this Agreement, and immediately upon acquiring additional insurance, COUNCIL shall deliver a certificate of insurance describing the insurance coverages and endorsements to:

County of Sierra
 Auditor/Risk-Manager
 P.O. Drawer 425
 Downieville, CA 95936

D.5.7 COUNCIL shall not render services under the terms and conditions of this Agreement unless each type of insurance coverage and endorsement is in effect and COUNCIL has delivered the certificate(s) of insurance to COUNTY as previously described. If COUNCIL shall fail to procure and maintain said insurance, COUNTY may, but shall not be required to, procure and maintain the same, and the premiums of such insurance shall be paid by COUNCIL to COUNTY upon demand. The policies of insurance provided herein which are to be provided by COUNCIL shall be for a period of not less than one year, it being understood and agreed that twenty (20) days prior to the expiration of any policy of insurance, COUNCIL will deliver to COUNTY a renewal or new policy to take the place of the policy expiring.

D.5.8 COUNTY shall have the right to request such further coverages and/or endorsements on the insurance as COUNTY deems necessary, at COUNCIL's expense. The amounts, insurance policy forms, endorsements and insurer(s) issuing the insurance shall be satisfactory to COUNTY in its sole and absolute discretion.

D.5.9 Any subcontractor(s), independent contractor(s) or any type of agent(s) performing or hired to perform any term or condition of this Agreement on behalf of COUNCIL, as may be allowed by this Agreement (hereinafter referred to as the "SECONDARY PARTIES"), shall comply with each term and condition of this Section D.5 entitled "INSURANCE". Furthermore, COUNCIL shall be responsible for the SECONDARY PARTIES' acts and satisfactory performance of the terms and conditions of this Agreement.

D.6 INDEMNITY. COUNCIL shall defend, indemnify, and hold harmless COUNTY, its elected and appointed councils, boards, commissions, officers, agents, and employees from any liability for damage or claims for damage for any economic loss or personal injury, including death, as well as for property damage, which may arise from the intentional or negligent acts or omissions of COUNCIL in the performance of services rendered under this Agreement by COUNCIL, or any of COUNCIL's officers, agents, employees, COUNCILs, or subcontractors.

D.7 COUNCIL NOT AGENT. Except as COUNTY may specify in writing, COUNCIL shall have no authority, express or implied, to act on behalf of COUNTY in any capacity whatsoever as an agent. COUNCIL shall have no authority, express or implied, pursuant to this Agreement to bind COUNTY to any obligation whatsoever.

D.8 ASSIGNMENT PROHIBITED. COUNCIL may not assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no legal effect.

D.9 PERSONNEL. COUNCIL shall assign only competent personnel to perform services pursuant to this Agreement. In the event that COUNTY, in its sole discretion at any time during the term of this Agreement, desires the removal of any person or persons assigned by COUNCIL to perform services pursuant to this Agreement, COUNCIL shall remove any such person immediately upon receiving written notice from COUNTY of its desire for removal of such person or persons.

D.10 STANDARD OF PERFORMANCE. COUNCIL shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which COUNCIL is engaged. All products of whatsoever nature which COUNCIL delivers to COUNTY pursuant to this Agreement shall be prepared in a first class and workmanlike manner and shall conform to the standards of quality normally observed by a person practicing in COUNCIL's profession.

D.11 POSSESSORY INTEREST. The parties to this Agreement recognize that certain rights to property may create a "possessory interest", as those words are used in the *California Revenue and Taxation Code* (107). For all purposes of compliance by COUNTY with Section 107.6 of the *California Revenue and Taxation Code*, this recital shall be deemed full compliance by the COUNTY. All questions of initial determination of possessory interest and valuation of such interest, if any, shall be the responsibility of the County Assessor and the contracting parties hereto. A taxable possessory interest may be created by this, if created, and the party in whom such an interest is vested will be subject to the payment of property taxes levied on such an interest.

D.12 TAXES. COUNCIL hereby grants to the COUNTY the authority to deduct from any payments to COUNCIL any COUNTY imposed taxes, fines, penalties and related charges which are delinquent at the time such payments under this Agreement are due to COUNCIL.

D.13 TERMINATION. COUNTY shall have the right to terminate this Agreement at any time by giving notice in writing of such termination to COUNCIL. In the event COUNTY gives notice of termination, COUNCIL shall immediately cease rendering service upon receipt of such written notice and the following shall apply:

D.13.1.1 COUNCIL shall deliver to COUNTY copies of all writings prepared by it pursuant to this Agreement. The term "writings" shall be construed to mean and include: handwriting, typewriting, printing, photostating, photographing, computer storage medium (tapes, disks, diskettes, etc.) and every other means of recording upon any tangible thing, and form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.

D.13.1.2 COUNTY shall pay COUNCIL the reasonable value of services rendered by COUNCIL to the date of termination pursuant to this Agreement not to exceed the amount documented by COUNCIL and approved by COUNTY as work accomplished to date; provided, however, that in no event shall any payment hereunder exceed One Thousand Dollars (\$1,000). Further provided, however, COUNTY shall not in any manner be liable for lost profits which might have been made by COUNCIL had COUNCIL completed the services required by this Agreement. In this regard, COUNCIL shall furnish to COUNTY such financial information as in the judgment of the COUNTY is necessary to determine the reasonable value of the services rendered by COUNCIL. In the event of a dispute as to the reasonable value of the services rendered by COUNCIL, the decision of the COUNTY shall be final. The foregoing is cumulative and does not affect any right or remedy which COUNTY may have in law or equity.

D.13.2 COUNCIL may terminate its services under this Agreement upon thirty (30) working days written notice to the COUNTY, without liability for damages, if COUNCIL is not compensated according to the provisions of the Agreement or upon any other material breach of the Agreement by COUNTY, provided that COUNCIL has first provided COUNTY with a written notice of any alleged breach, specifying the nature of the alleged breach and providing not less than ten (10) working days within which the COUNTY may cure the alleged breach.

D.14 OWNERSHIP OF INFORMATION. All professional and technical information developed under this Agreement and all work sheets, reports, and related data shall become and/or remain the property of COUNTY, and COUNCIL agrees to deliver reproducible copies of such documents to COUNTY on completion of the services hereunder. The COUNTY agrees to indemnify and hold COUNCIL harmless from any claim arising out of reuse of the information for other than this project.

D.15 WAIVER. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

D.16 COMPLETENESS OF INSTRUMENT. This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made, express or implied.

D.17 SUPERSEDES PRIOR AGREEMENTS. It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties hereto.

D.18 MINOR AUDITOR REVISION. In the event the Sierra County Auditor's office finds a mathematical discrepancy between the terms of the Agreement and actual invoices or payments, provided that such discrepancy does not exceed 1% of the Agreement amount, the Auditor's office may make the adjustment in any payment or payments without requiring an amendment to the Agreement to provide for such adjustment. Should the COUNTY or the COUNCIL disagree with such adjustment, they reserve the right to contest such adjustment and/or to request corrective amendment.

D.19 CAPTIONS. The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

D.20 DEFINITIONS. Unless otherwise provided in this Agreement, or unless the context otherwise requires, the following definitions and rules of construction shall apply herein.

D.20.1 NUMBER AND GENDER. In this Agreement, the neuter gender includes the feminine and masculine, the singular includes the plural, and the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

D.20.2 MANDATORY AND PERMISSIVE. "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

D.21 TERM INCLUDES EXTENSIONS. All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

D.22 SUCCESSORS AND ASSIGNS. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

D.23 MODIFICATION. No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

D.24 COUNTERPARTS. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

D.25 OTHER DOCUMENTS. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

D.26 PARTIAL INVALIDITY. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

D.27 VENUE. It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Sierra, State of California.

D.28 CONTROLLING LAW. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

D.29 CALIFORNIA TORT CLAIMS ACT. Notwithstanding any term or condition of the Agreement, the provisions, and related provisions, of the California Tort Claims Act, Division 3.6 of the *Government Code*, are not waived by COUNTY and shall apply to any claim against COUNTY arising out of any acts or conduct under the terms and conditions of this Agreement.

D.30 TIME IS OF THE ESSENCE. Time is of the essence of this Agreement and each covenant and term herein.

D.31 AUTHORITY. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement are in full compliance. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

D.32 CORPORATE AUTHORITY. If COUNCIL is a corporation or public agency, each individual executing this Agreement on behalf of said corporation or public agency represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of said corporation, in accordance with a duly adopted resolution of the Board of Directors of said corporation or in accordance with the bylaws of said corporation or Board or Commission of said public agency, and that this Agreement is binding upon said corporation or public entity in accordance with its terms. If COUNCIL is a corporation, COUNCIL shall,

within thirty (30) days after execution of this Agreement, deliver to COUNTY a certified copy of a resolution of the Board of Directors of said corporation authorizing or ratifying the execution of this Agreement.

D.33 CONFLICT OF INTEREST.

D.33.1 LEGAL COMPLIANCE. COUNCIL agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interest, including, but not limited to, Article 4 of Chapter 1, Division 4, Title 1 of the *California Government Code*, commencing with Section 1090, and Chapter 7 of Title 9 of said Code, commencing with Section 87100, including regulations promulgated by the California Fair Political Practices Commission.

D.33.2 ADVISEMENT. COUNCIL agrees that if any facts come to its attention which raise any questions as to the applicability of this law, it will immediately inform the COUNTY designated representative and provide all information needed for resolution of the question.

D.33.3 ADMONITION. Without limitation of the covenants in subparagraphs D.34.1 and D.34.2, COUNCIL is admonished hereby as follows:

The statutes, regulations and laws referenced in this provision D.34 include, but are not limited to, a prohibition against any public officer, including COUNCIL for this purpose, from making any decision on behalf of COUNTY in which such officer has a direct or indirect financial interest. A violation occurs if the public officer influences or participates in any COUNTY decision which has the potential to confer any pecuniary benefit on COUNCIL or any business firm in which COUNCIL has an interest of any type, with certain narrow exceptions.

D.34 NONDISCRIMINATION. During the performance of this Agreement, COUNCIL shall not unlawfully discriminate against any employee of the COUNCIL or of the COUNTY or applicant for employment or for services or any member of the public because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex. COUNCIL shall ensure that in the provision of services under this Agreement, its employees and applicants for employment and any member of the public are free from such discrimination. COUNCIL shall comply with the provisions of the Fair Employment and Housing Act (*Government Code* Section 12900 et seq.). The applicable regulations of the Fair Employment Housing Commission implementing *Government Code* Section 12900, set forth in Chapter 5, Division 4 of Title 2 of the California *Administrative Code* are incorporated into this Agreement by reference and made a part hereof as if set forth in full. COUNCIL shall also abide by the Federal Civil Rights Act of 1964 and all amendments thereto, and all administrative rules and regulation issued pursuant to said Act. COUNCIL shall give written notice of its obligations under this clause to any labor agreement. COUNCIL shall include the non-discrimination and compliance provision of this paragraph in all subcontracts to perform work under this Agreement.

D.35 JOINT AND SEVERAL LIABILITY. If any party consists of more than one person or entity, the liability of each person or entity signing this Agreement shall be joint and several.

D.36 TAXPAYER I.D. NUMBER. The COUNTY shall not disburse any payments to COUNCIL pursuant to this Agreement until COUNCIL supplies the latter's Taxpayer I.D. Number or Social Security Number (as required on the line under COUNCIL's signature on page 2 of this Agreement).

D.37 NOTICES. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

If to "COUNTY":
Department of Planning
County of Sierra
Post Office Box 530
Downieville, CA 95936

With a copy to:
County Counsel
County of Sierra
Post Office Drawn D
Downieville, CA 95936

If to "COUNCIL":
Sierra County Fire Safe and Watershed Council, Inc.
P.O. Box 210
Calpine, CA 96124

ATTACHMENT E

(Taxpayers I.D. or Social Security No.)

County of Sierra
Auditor's Office
Post Office Box 425
Downieville, California 95936

Our File No. _____

Re: _____

STATEMENT OF ACCOUNT FOR

BALANCE FORWARD _____ \$

TOTAL CURRENT CHARGES:

Total \$ _____