



Truckee Fire Protection District
Measure T Wildfire Prevention Division
Community Wildfire Prevention Program



GRANT AGREEMENT

APPLICANT: Tahoe Donner Association

PROJECT TITLE: Tahoe Donner Forestry Mastication Equipment

GRANT AGREEMENT: 10-2023

PROJECT PERFORMANCE PERIOD IS from UPON APPROVAL through June 30, 2024

Under the terms and conditions of this Grant Agreement ("Agreement"), the Applicant agrees to complete the project as described in the project description ("Project"), and the Truckee Fire Protection District agrees to fund the Project up to the total grant amount indicated below.

PROJECT DESCRIPTION:

This project will support the purchase of forestry mastication equipment to enable Tahoe Donner Forestry to complete 705 acres of fuel reduction projects as part of their 5 year forest management plan. Having an association owned masticator would allow the Forestry department to treat land for a fraction of the cost of contracting the work. It will also allow greater flexibility and efficiencies in project planning and execution.

Total Grant not to exceed \$ 118,987.54 (or actual Project costs, whichever is less)

**The Special and General Provisions attached are made a part of and incorporated into this Agreement.*

~~Tahoe Donner Association~~

TRUCKEE FIRE PROTECTION DISTRICT

By: [Signature]

By: _____

Name & Title: David Mickaelian, General Manager

Name & Title: _____

Date: 7/26/2023

Date: _____

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance.

SIGNATURE OF TRUCKEE FIRE FINANCE DIRECTOR

DATE

TERMS AND CONDITIONS OF GRANT AGREEMENT

I. **RECITALS**

1. This Agreement, is entered into between the Truckee Fire Protection District, a California fire protection district, hereinafter referred to as "FIRE DISTRICT" and Tahoe Donner Association, hereinafter referred to as "GRANTEE".
2. The FIRE DISTRICT hereby grants to GRANTEE a sum (hereinafter referred to as "GRANT FUNDS") not to exceed One Hundred Eighteen Thousand Nine hundred Eighty Seven Dollars fifty-four Cents (\$ 118,987.54).
3. In addition to the terms and conditions of this Agreement, the FIRE DISTRICT and GRANTEE agree that the terms and conditions contained in the documents set forth below are hereby incorporated and made part of this Agreement.
 - a. Truckee Fire Protection District Community Wildfire Prevention Grant Program Procedural Guide FY2023/2024
 - b. The submitted Application, Scope of Work, Budget, Budget Narrative, Maps, and Environmental documentation (if applicable).

II. **SPECIAL PROVISIONS**

1. Work shall not commence prior to the execution of this Agreement by both parties, and for a minimum of thirty-five (35) days after the filing of an appropriate environmental compliance document, unless written approval to begin operations is given from FIRE DISTRICT. Any work started prior to compliance with the provisions of this section will not be eligible for funding under the terms of this Agreement.
2. As precedent to the FIRE DISTRICT'S obligation to provide funding, GRANTEE shall provide to the FIRE DISTRICT for review and approval a detailed budget, specifications, and Project description. Approval by the FIRE DISTRICT of such plans and specifications, or any other approvals provided for in this Agreement, shall be for scope and quality of work, and shall not relieve GRANTEE of the obligation to carry out any other obligations required by this Agreement, in accordance with applicable law or any other standards ordinarily applied to such work or activity.
3. All informational products (e.g., data, studies, findings, management plans, manuals, photos, etc.) produced with the use of GRANT FUNDS shall be available for public use.

III. **GENERAL PROVISIONS**

1. Definitions

- a. The term "Agreement" means grant agreement number 10-2023.

- b. The term "GRANT FUNDS" means the money provided by the FIRE DISTRICT to the GRANTEE in this Agreement.
- c. The term "GRANTEE" means an applicant who has a signed Agreement for the award for GRANT FUNDS.
- d. The term "Other Sources of Funds" means all matching fund sources that are required or used to complete the Project beyond the GRANT FUNDS provided by this Agreement.
- e. The term "FIRE DISTRICT" means the Truckee Fire Protection District
- f. The term "Project" means the development or other activity described in the "Project Scope of Work".
- g. The term "Project Budget Detail" as used herein defines the approved budget plan.
- h. The term "Project Scope of Work" as used herein means the individual scope of work describing in detail the approved tasks.

2. Project Representatives

The project representatives during the term of the agreement will be:

THE DISTRICT: Truckee Fire Protection District	GRANTEE: Tahoe Donner Association
Attention: Dillon Sheedy	Attention: Ben Gwerder
Mailing Address: P.O. Box 2768 Truckee, CA 96160	Mailing Address: 11509 Northwoods blvd. Truckee, CA 96161
Phone Number: 530-582-7888	Phone Number: 530-587-9432
Email Address: dillonsheedy@truckeefire.org	Email Address: bgwerder@tahoedonner.com

Changes to the Project representatives during the term of this Agreement shall be made in writing. Notice shall be sent to the above representative for all notice provisions of this Agreement.

3. Project Execution

- a. The FIRE DISTRICT hereby grants to the GRANTEE a sum of money (GRANT FUNDS) not to exceed the amount stated in Section I. RECITALS, Paragraph 2 in consideration of and on condition that the sum be expended in carrying out the purposes as set forth in the description of the Project in this Agreement and its attachments and under the terms and conditions set forth in this Agreement.
- b. GRANTEE shall assume any obligation to furnish any additional funds that may be necessary to complete the Project. Any amendment to the Project as set forth in the Application on file with the FIRE DISTRICT must be submitted to the FIRE DISTRICT for approval in writing. No amendment is allowed until written approval is given by the FIRE DISTRICT.
- c. GRANTEE shall complete the Project in accordance with the time of Project performance set forth in this Agreement, unless an amendment has been approved and signed by the FIRE DISTRICT under the terms and conditions of this Agreement. Amendments must be requested in advance and will be considered in the event of circumstances beyond the control of the GRANTEE, but in no event less than 60 days from the Agreement expiration date and in no event less than 60 days before the effective date of the amendment. Approval of amendment is at the FIRE DISTRICT's discretion; approval will be determined by the FIRE DISTRICT representative listed in section 2 above.
- d. GRANTEE certifies that the Project Scope of Work complies with all local, State, and federal laws and regulations.
- e. GRANTEE and GRANTEE's contractors shall observe and comply with all rules and regulations of the governing board of the FIRE DISTRICT and all federal, state, and local laws, ordinances and regulations. GRANTEE and GRANTEE's contractors shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Project as indicated or specified. If GRANTEE observes that any of the work performed on the Project by this Agreement is at variance with any such laws, ordinance, rules or regulations, GRANTEE shall notify the FIRE DISTRICT, in writing, and, at the sole option of the FIRE DISTRICT, any necessary changes to the scope of the Project shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated pursuant to Section 7. If GRANTEE or GRANTEE's contractors perform any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the FIRE DISTRICT of the violation, GRANTEE shall bear all costs arising therefrom.

- f. GRANTEE and GRANTEE's contractors shall secure and maintain in force such permits and licenses as are required by law in connection with the Project pursuant to this Agreement.
- g. CEQA/Environmental Compliance: GRANTEE and FIRE DISTRICT agree that the California Environmental Quality Act (CEQA) (Public Resources Code, Section 21000, et. seq. Title 14, California Code of Regulations, Section 15000 et. seq.) and all other local, State, and federal environmental laws shall be complied with. (One or more of the following boxes must be checked)
- ☐ A copy of the certified documents must be provided to FIRE DISTRICT before any GRANT FUNDS are made available for any Project activity that could directly impact the environment (e.g., cutting, piling or burning bush, masticating, dozer work, etc.). GRANT FUNDS will not be made available in advance of environmental compliance for Project activities.
- OR
- ☐ GRANTEE has completed and complies with all CEQA and other local, state, and federal environmental laws required for the Project and has submitted evidence of such compliance to the FIRE DISTRICT with its application for this grant which is attached hereto, as Environmental Compliance, and made part of this agreement
- OR
- ☒ GRANTEE is not a public agency and therefore not subject to CEQA. GRANTEE agrees that all work conducted pursuant to this Agreement shall be subject to the Z'berg-Nejedly Forest Practice Act and any and all other applicable mitigation or avoidance measures adopted by FIRE DISTRICT pursuant to CEQA.
- h. GRANTEE shall permit periodic site visits by representative(s) of the FIRE DISTRICT to ensure Program compliance and that work is in accordance with the approved Project Scope of Work, including a final inspection upon Project completion. Site visits shall be scheduled and agreed upon by GRANTEE and FIRE DISTRICT prior to visit commencing. Site visits shall not unreasonably interfere with the work of the GRANTEE and/or the Project.
- i. GRANTEE, and the agents and employees of GRANTEE, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees, or agents, of the FIRE DISTRICT. No person who, as an officer, employee, or agent of the FIRE DISTRICT participated in the preparation or creation of or determination to award this Grant Agreement shall serve as an agent or employee of GRANTEE including but not limited to those acts prohibited by Government Code Sections 1090, and 87100.

4. Project Costs and Payment Documentation

- a. Payment by the FIRE DISTRICT shall be made after receipt of an acceptable invoice and approval by a duly authorized representative of the FIRE DISTRICT. GRANTEE shall submit an invoice for payment to the FIRE DISTRICT Project Representative. The invoice may be submitted as hard copy or electronically.
- b. For services satisfactorily rendered, and upon receipt and approval of invoices for payment, the FIRE DISTRICT agrees to compensate GRANTEE for actual expenditures incurred up to the maximum amount set forth in this Agreement and in accordance with the rates specified herein, which is attached hereto, as Final Project Budget, and made a part of this Agreement. The FIRE DISTRICT shall remit GRANT FUNDS to the GRANTEE in an amount equal to ninety-five percent (95%) of the amount of each approved invoice within sixty (60) days of receipt of the invoice and after the verification of the work performed.
- c. A final invoice shall be submitted no later than thirty (30) days after completion, expiration, or termination of this Agreement. Upon completion of the Project, the remaining five percent (5%) of all of the invoices will be paid after the Project is inspected and accepted by the FIRE DISTRICT, a Notice of Completion is recorded, and the property is free of all possible liens related to the GRANTEE's or GRANTEE'S contractor's performance of the Project.
- d. GRANTEE shall submit, in arrears, not more frequently than once a month, and no less than quarterly, an invoice to the FIRE DISTRICT for costs paid by GRANTEE pursuant to this Agreement. Each invoice shall contain the following information: the Agreement number, the dates or time period during which the invoiced costs were incurred, expenditures for the current invoice and cumulative expenditures to date by major budget category (e.g., salaries, benefits, supplies, etc.), appropriate supporting documentation, Project progress reports, and the signature of an authorized representative of GRANTEE. GRANTEE may be required by the FIRE DISTRICT to submit a lien release(s) with the final invoice.
- e. GRANT FUNDS in this Agreement have a limited period in which they must be expended. All GRANTEE expenditures must occur prior to the end of the Project performance period set forth in this Agreement.
- f. Except as otherwise provided herein, GRANTEE shall expend GRANT FUNDS in the manner described in the Project Budget approved by the FIRE DISTRICT.
- g. GRANTEE shall promptly submit any and all records at the time and in the form as the FIRE DISTRICT may request.

5. Project Administration

- a. GRANTEE shall provide the FIRE DISTRICT a written report showing total final Project expenditures and matching funds upon Project completion or grant expiration, whichever occurs first. GRANTEE must report to the FIRE DISTRICT all sources of other funds for the Project. If this provision is deemed to be violated, the FIRE DISTRICT will request an audit of GRANTEE and can delay the disbursement of funds until the matter is resolved.
- b. GRANTEE shall promptly submit written Project reports as the FIRE DISTRICT may request throughout the term of this Agreement.
- c. GRANTEE shall submit a final accomplishment report, final invoice with associated supporting documentation, and copies of materials developed using GRANT FUNDS, including but not limited to plans, educational materials, etc. within thirty (30) days of Project completion.

6. Financial Records

- a. GRANTEE shall retain all records described in Section 6(c) below for four (4) years after final payment by the FIRE DISTRICT. In the case an audit occurs, all such records shall be retained for three (3) years from the date audit is completed or the four (4) years, whichever date is later.
- b. GRANTEE shall maintain satisfactory financial accounts, documents, and records for the Project and make them available to the FIRE DISTRICT for review during reasonable times. This includes the right to inspect and make copies of any books, records, or reports of GRANTEE pertaining to this Agreement or matters related thereto.
- c. GRANTEE shall keep such records as the FIRE DISTRICT shall prescribe, including, but not limited to, records which fully disclose (a) the disposition of the GRANT FUNDS, which are proceeds of Measure T funding assistance, (b) the total cost of the Project in connection with such assistance that is given or used, (c) the amount and nature of that portion of the Project cost supplied by other sources, and (d) any other such records as will facilitate an effective audit. All records shall be made available to the FIRE DISTRICT, or other entity as determined by the State of California for auditing purposes at reasonable times.
- d. GRANTEE may use any generally accepted accounting system.

7. Project Termination

- a. This Agreement may be terminated by the FIRE DISTRICT or GRANTEE upon thirty (30) days' written notice to the other party.
- b. If either party terminates the Agreement prior to the completion of the Project, GRANTEE shall take all reasonable measures to prevent further costs to the FIRE DISTRICT under the Agreement and the FIRE DISTRICT shall be responsible for any reasonable and non-cancelable obligations incurred by GRANTEE in the performance of this Agreement prior to the date of the notice to terminate, but only up to the undisbursed balance of funding authorized in this Agreement.
- c. Failure by GRANTEE to comply with the terms of this Agreement may be cause for suspension of all obligations of the FIRE DISTRICT hereunder at the discretion of the FIRE DISTRICT.
- d. Failure of GRANTEE to comply with the terms of this Agreement shall not be cause for the suspension of all obligations of the FIRE DISTRICT hereunder if in the judgment of the FIRE DISTRICT such failure was due to no fault of GRANTEE. At the discretion of the FIRE DISTRICT, any amount required to settle at minimum cost any irrevocable obligations, including but not limited to costs and obligations incurred by GRANTEE in furthering towards completion, the Project, properly incurred shall be eligible for reimbursement under this Agreement.
- e. Final payment to GRANTEE may not be made until the FIRE DISTRICT determines the Project conforms substantially to this Agreement.

8. Hold Harmless

- a. The Grantee shall indemnify, and save harmless the FIRE DISTRICT and its, directors, officers, agents and employees, from any and all liabilities, claims, demands, damages, or costs resulting from, growing out of, or in any way connected with or incident to this Agreement, or the design, construction, operation, repair, maintenance or existence of the Project, except to the extent of, and in direct proportion to the active or gross negligence or the intentional wrongdoing of the FIRE DISTRICT, or its directors, officers, agents or employees, which arises other than from (1) a failure by the FIRE DISTRICT to warn of hazards, based upon its review or inspection of the Project plans, designs, specifications or site(s), and/or (2) the omission by FIRE DISTRICT to review or inspect said plans, designs, specifications or site(s). The parties expressly acknowledge that this Agreement is an agreement for the subvention of public funds from the FIRE DISTRICT to the Grantee and is not an "agreement" as that term is defined in Government Code Section 895 or a "construction contract" under Civil Code Sections 2782 or 2783. Accordingly, it is

acknowledged Grantee does not, in matters arising under this Agreement, have any right to contribution and indemnity from the FIRE DISTRICT arising under Government Code Sections 895.2 and 895.6.

- b. Grantee waives any and all rights to any type of express or implied indemnity or right of contribution from the FIRE DISTRICT, its directors, officers, agents or employees, for any liability resulting from, growing out of, or in any way connected with or incident to this Agreement, except such liability as results from the FIRE DISTRICT's active negligence or the intentional wrongdoing of its member(s), Director(s), agent(s), or employee(s), and, in the case of joint negligence, is in direct proportion to the FIRE DISTRICT's share of fault.
- c. FIRE DISTRICT assumes no responsibility for assuring the safety of the Project improvements and the Project site(s). FIRE DISTRICT's rights under this Agreement to review, inspect, or approve the Project and/or its election to exercise or not to exercise those rights, shall not give rise to any warranty or representation that the Project or the Project site(s) are free of defects and hazards.
- d. Nothing in this Agreement is intended to create in the public or in any member of it rights as a third-party beneficiary under this Agreement.

9. Nondiscrimination

The FIRE DISTRICT prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, sex, marital status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. GRANTEE and GRANTEE's contractors shall not discriminate against any person on any of these bases.

10. Conflict of Interest

GRANTEE or anyone acting on behalf of GRANTEE shall not have any conflicting personal and/or financial interests in carrying out the duties of this Agreement.

11. Insurance

GRANTEE shall procure and maintain, and shall require its contractors to procure and maintain, during the life of this Agreement the following insurance with minimum limits equal to the amount indicated below.

- a. **Commercial General Liability Insurance and Auto Automobile Insurance.** Commercial General Liability Insurance and Auto Automobile Insurance that shall protect the GRANTEE, the FIRE DISTRICT, and their directors, officers,

employees, agents, and representatives (the "Indemnified Parties") from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising from any portion of the Project.

- b. **Workers' Compensation and Employer's Liability Insurance.** To the extent it is required by law, including section 3700 of the California Labor Code, GRANTEE and GRANTEE's contractors shall carry Workers' Compensation Insurance for all of their employees engaged in any of the Project. If any class of employee or employees engaged in the Project under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence work on the Project under this Agreement. GRANTEE shall carry Employer's Liability Insurance.

c. **Type of Coverage and Minimum Requirements.**

1. Commercial General Liability Insurance and Automobile Insurance, including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments:

Each Occurrence	\$1,000,000
General Aggregate for Each	\$2,000,000
2. Workers' Compensation Insurance Statutory limits
3. Employer's Liability Insurance \$1,000,000

- d. **Proof of Carriage of Insurance.** GRANTEE and GRANTEE's contractors shall not commence any work on the Project under this Agreement until all required insurance has been obtained and certificates or endorsements, as requested by the FIRE DISTRICT, indicating the required coverages have been delivered in duplicate to the FIRE DISTRICT and approved by the FIRE DISTRICT. Certificates, endorsements and insurance policies shall include the following:

1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the FIRE DISTRICT, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, the person to whom cancellation and reduction notice will be sent, and length of notice period.
3. An endorsement stating that the FIRE DISTRICT and its directors, officers, employees, agents, and representatives are named additional insureds under all policies except Workers' Compensation Insurance.

Endorsements shall also state that GRANTEE's and its contractors' insurance policies shall be primary to any insurance or self-insurance maintained by District and any insurance carried by the FIRE DISTRICT or its directors, officers, employees, agents and representatives shall not contribute to it.

4. All policies shall be written on an occurrence form.

e. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A.

12. Governing Law, Venue and Attorneys' Fees

This Agreement shall be governed by the laws of the State of California. Any legal action arising out of or related to this Agreement shall be brought in the Truckee Branch of The Nevada County Superior Court. The prevailing party in any suit or action or proceeding directly or indirectly arising out of, connected with, or resulting from the performance of this Agreement shall be entitled to an award of its attorneys' fees and costs, including expert witness fees and costs.

13. Notice

Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

Truckee Fire Protection District
10049 Donner Pass Rd.
Truckee, CA 96161
ATTN: Joyce Engler
Administrative Officer

GRANTEE: Tahoe Donner Association

11509 Northwoods Blvd.

Truckee, CA 96161

ATTN: Ben Gwerder

Title: Forestry Dept. Manager

14. Incorporation

The grant guidelines and the Project Scope of Work, Project Budget and any subsequent amendments or modifications to the Project Scope of Work and Project Budget approved in writing by the FIRE DISTRICT are hereby incorporated by reference into this Agreement as though set forth in full in this Agreement.

15. Severability

If any provision of this Agreement or the Project Scope of Work thereof is held invalid, that invalidity shall not affect other provisions or applications of this

Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are severable.

16. Waiver

No term or provision hereof will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing and signed on behalf of the party against whom the waiver is asserted. No consent by either party to, or waiver of, a breach by either party, whether expressed or implied, will constitute consent to, waiver of, or excuse of any other, different, or subsequent breach by either party.

17. Assignment

This Agreement is not assignable by GRANTEE either in whole or in part, unless consented to in writing before the assignment by the FIRE DISTRICT, which consent may be withheld in its sole discretion.

18. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, legal representatives, successors, and assigns.

19. PROGRAM ACKNOWLEDGEMENT/RECOGNITION

All projects funded both fully and partially by Measure T must clearly display, identify and label themselves as being part of the "Truckee Fire Measure T program". The acknowledgement must contain the Measure T and Truckee Fire logos as well as the following statement:

"Funding for this Project provided by the Truckee Fire Protection District as part of the Truckee Fire Measure T Community Wildfire Prevention Fund."

A draft of the acknowledgement must be approved by the FIRE DISTRICT prior to publication. For stationary projects, acknowledgement may include, but is not limited to, a sign on the project site. For other project types, such as vehicles, equipment, and consumer-based incentives, acknowledgement is encouraged by using a decal, sticker or other signage. The FIRE DISTRICT may provide these materials at the request of the GRANTEE.

20. Counterparts

This Agreement and all amendments and supplements to it may be executed in counterparts and transmitted by facsimile, and all counterparts together, whether original or facsimile, shall be construed as one document.