

Staff Report

TO: Board of Directors

FROM: Monica Reyes, Recreation Manager

DATE: May 11, 2022

SUBJECT: 2022 Collection Agreement between NID and the USFS

RECREATION

RECOMMENDATION:

Adopt Resolution 2022-28 - 2022 approving the Collection Agreement between Nevada Irrigation District (District) and the United States Department of Agriculture, U.S. Forest Service Tahoe National Forest (USFS); and the proposed amendment to the 2022 Annual Budget.

BACKGROUND:

The District executed the Special Use Permit for Campground and Related Granger-Thye Concessions (Special Use Permit). The term of the Special Use Permit is for three years and expired on December 31, 2021. The purpose of this Special Use Permit was to allow the District to operate the following campgrounds:

- East Meadows Campground
- Pass Creek/Overflow Campgrounds
- Pass Creek and Woodcamp Boat Launches
- Aspen and Woodcamp Picnic Areas
- Jackson Point Campground
- Woodcamp Campground
- Fir Top Campground
- Findley Campground
- Jackson Creek and Canyon Creek Campgrounds
- Dispersed camping at Milton and Bowman Corridor

These recreational facilities are part of the FERC Yuba-Bear Project #2266. Although the District is aware of no requirement of the Yuba-Bear FERC Project

license or Federal Law or Regulation that would require the District to pay USFS to operate USFS Facilities, the District has indicated a willingness to support the operation of the facilities if a reasonable agreement could be reached.

On March 23, 2022, staff brought a discussion to the Board regarding not renewing the Special Use Permit with the USFS to operate and maintain USFS campgrounds and land within the Jackson Meadow Complex and Bowman Corridor, and instead enter into a collection agreement that would allow the District to pay the USFS to operate the stated campgrounds. At that meeting, the Board stated support for the proposed collection agreement but requested staff to continue negotiations with the USFS to reduce the payment proposed by USFS. The original financial request from USFS was \$457,420.

Over the past month, NID staff worked with the USFS and was able to reduce the USFS's original requested amount by \$108,550. The new amount being requested by the USFS is \$348,870 for 2022. The Collection Agreement obligation for the District will be \$280,870. NID's obligation outside of the Collection Agreement will be approximately \$68,000 for contract services that the District will pay directly to each of the covered vendors. The contact services are services for garbage collection and waste fees, vault toilet pumping, and water systems operation. The Collection Agreement will be for 2022 only, all future agreements will be negotiated between NID and the USFS.

BUDGETARY IMPACT:

Approval of this resolution includes the following and amendment to the 2022 Annual Budget as follows:

- Transfer of \$348,870 from the unassigned fund balance of Fund 50 to Fund 30. If this request is approved, the remaining unassigned balance of Fund 50 will be \$3,944,095
- Increase of Fund 30, Contractor Fees in the amount of \$348,870 (as detailed below)
 - \$280,870 for the collection agreement.
 - \$68,000 for various vendors required to execute the direct expense portion of the agreement.

If approved the Fund 30 total approved expenditures will be \$2,691,431.

Attachments: (5)

- Attached Resolution 2022-28
- Draft – NID 2022-Collection Agreement
- Collection Agreement Spreadsheet
- FS 150-18 Collection Agreement
- Jackson Meadows/Bowman Funding Agreement



RESOLUTION NO. 2022-28

OF THE BOARD OF DIRECTORS OF THE NEVADA IRRIGATION DISTRICT

2022 Collection Agreement between NID and the USFS

WHEREAS, During the 2021 camping season NID had several discussions with the USFS concerning NID wanting to implement fire restrictions due to dry conditions, the need for increased camping rates and NID's risks and liabilities due to fires or natural disasters as defined in its Special Use Permit. NID and the USFS were not able to come to an agreement, therefore on September 13, 2021, NID informed the USFS it would not renew its Special Use Permit.

WHEREAS, On December 31, 2021, NID Special Use Permit with the USFS to operate and maintain campgrounds and lands owned by the USFS within the Jackson Meadows Complex and Bowman Corridor expired.

WHEREAS, During the Board of Directors meeting on March 23, 2022, there was a discussion regarding NID not renewing its Special Use Permit with the USFS, NID's financial obligation under its FERC Hydroelectric Project License No. 2266 to fund the USFS to operate and maintain its campgrounds and lands and the amount of \$457,420 being requested by the USFS to do so.

WHEREAS, Direction received during the Board of Directors meeting on March 23, 2022, resulted in NID staff working with the USFS to come to a more realistic financial request based on NID's previous year's expenses to operate and maintain the USFS campgrounds and lands.

WHEREAS, NID and USFS staff met several times during April 2022 and were able to reduce the USFS's original requested amount by \$108,550.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Nevada Irrigation District approves the following:

1. The General Manager to execute the 2022 Collection Agreement between Nevada Irrigation District and the United States Department of Agriculture, U.S. Forest Service Tahoe National Forest.
2. Amendment of the 2022 Annual Budget as follows:

- Transfer of \$348,870 from the unassigned fund balance of Fund 50 to Fund 30. If this request is approved, the remaining unassigned balance of Fund 50 will be \$3,944,095
- Increase of Fund 30 Expenditures, Contractor Fees in the amount of \$348,870 (as detailed below):
 - \$280,870 for the collection agreement.
 - \$68,000 for various vendors required to execute the direct expense portion of the agreement.

If approved the Fund 30 total approved expenditures will be \$2,691,431.

* * * * *

PASSED AND ADOPTED by the Board of Directors of the Nevada Irrigation District at a regular meeting held on the 11th day of May, 2022 by the following vote:

AYES:	Directors:
NOES:	Directors:
ABSENT:	Directors:
ABSTAINS:	Directors:

President of the Board of Directors

Attest:

Secretary to the Board of Directors



FS Agreement No. _____

Cooperator Agreement No. _____

COLLECTION AGREEMENT
Between The
NEVADA IRRIGATION DISTRICT
And The
UNITED STATES DEPARTMENT OF AGRICULTURE,
U.S. FOREST SERVICE
TAHOE NATIONAL FOREST

This COLLECTION AGREEMENT is hereby entered into by and between the Nevada Irrigation District, hereinafter referred to as “the Cooperator”, and the United States Department of Agriculture (USDA), Forest Service, Tahoe National Forest, hereinafter referred to as the “U.S. Forest Service,” under the provisions of the Granger-Thye Act of April 24, 1950 (16 U.S.C. § 572 and as amended).

Background: The U.S. Forest Service, as an agency of the United States of America, is responsible for management of National Forest System (NFS) lands and therefore, is responsible for the management, use, and stewardship of natural and cultural resources on national forests and grasslands. The Granger-Thye Act Section 5b allows the U.S. Forest Service to collect funds to perform work on National Forest System (NFS) for the benefit of interested parties (e.g., FERC licensees) who occupy or use national forests where there is a public benefit and which is the interested party's responsibility.

This Agreement is not a commitment to or approval of any activities that are subject to completion of environmental analysis, NEPA and other procedures (e.g., permit administration). Project work associated with this agreement are consist with administration, protection, improvement, reforestation, and such other kinds of work as the U.S. Forest Service is authorized to do on lands of the United States. The U.S. Forest Service may not accept services, equipment, materials, and supplies under this Collection Agreement.

Title: Recreation Management and Operation Activities at Recreation Facilities on NFS lands associated with the Yuba Bear Hydroelectric Project License (FERC No. 2266)

I. PURPOSE: The purpose of this agreement, and incorporated Financial Plan, is to document the voluntary contribution of funds from the Cooperator to the U.S. Forest Service to perform recreation management and operations activities where the activities are associated with NFS lands that are occupied by the Cooperator via a FERC Hydroelectric Project License, and whereby the the Cooperator agrees for the U.S. Forest Service to perform the agreed to work at the Cooperator's expense. Facilities subject to this agreement are the recreation facilities on NFS lands that are associated with the Cooperator's Yuba Bear Hydroelectric License (FERC No. 2266). The start work date for operations activities and applicable expenditures under this agreement is May 12, 2022.



II. THE COOPERATOR SHALL:

- A. LEGAL AUTHORITY. The Cooperator shall have the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- B. Perform in accordance with the Financial Plan.
- C. Upon presentation of a Bill for Collection, deposit with the U.S. Forest Service the amount agreed to in the Financial Plan.
- D. Acknowledge and understand that: (a) the U.S. Forest Service will conduct its operations in an independent manner and (b) nothing in this agreement shall be construed in any manner as an obligation by the Government to guarantee a favorable decision to the Cooperator or to obligate the Government to any future action.

III. THE U.S. FOREST SERVICE SHALL:

- A. ADVANCE BILLING. The maximum total cost liability to the The Cooperator for this agreement is \$280,870.00. The U.S. Forest Service shall bill the Cooperator prior to commencement of work for deposits sufficient to cover the estimated costs (including overhead) for the specific payment period.

U.S. Forest Service overhead rate **will not** be assessed as funds are obtained to accomplish work, under part b of the Granger-Thye Act of 1950 (16 U.S.C. § 572), on NFS land in which the responsible party is the depositor, ref., FSH 1909.13, Chapter 40, Section 40.61.

Billing Method: 1. Single lump sum advance bill

Billing must be sent to:

Nevada Irrigation District
1036 West Main Street
Grass Valley, CA 95945
reyes@nidwater.com

- B. Perform in accordance with the attached Financial Plan.

IV. IT IS MUTUALLY AGREED AND UNDERSTOOD BY AND BETWEEN THE PARTIES THAT:

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this agreement.



Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Name: Monica Reyes Address: 1036 West Main Street City, State, Zip: Grass Valley, CA 95945 Telephone: 530-265-8861 FAX: Email: reyes@nidwater.com	Name: Monica Reyes Address: 1036 West Main Street City, State, Zip: Grass Valley, CA 95945 Telephone: 530-265-8861 FAX: Email: reyes@nidwater.com

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Name: Hillary Santana Address: 631 Coyote Street City, State, Zip: Nevada City, CA 95959 Telephone: 970-987-7140 FAX: Email: hillary.santana@usda.gov	

- B. FOREST SERVICE LIABILITY TO THE COOPERATOR. The United States shall not be liable to The Cooperator for any costs, damages, claims, liabilities, and judgments that arise in connection with the performance of work by the U.S. Forest Service or its contractors under this agreement, including but not limited to damage to any property owned by The Cooperator or any third party.

- C. REFUNDS. Funds collected in advance by the U.S. Forest Service, which are not spent or obligated for the project(s) approved under this agreement, may be refunded to the Cooperator, authorized for use for a new agreement by the Cooperator, or waived by the Cooperator. A Data Universal Numbering System (DUNS) number and registration in the System for Award Management (SAM) by the Cooperator may be necessary to process a refund. Due to processing costs, any balance less than \$25 shall not be refunded to the Cooperator.

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

- E. FREEDOM OF INFORMATION ACT (FOIA). Public access to agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552). Requests for research data are subject to 2 CFR 215.36.



Public access to culturally sensitive data and information of Federally-recognized Tribes may also be explicitly limited by P.L. 110-234, Title VIII Subtitle B §8106 (2009 Farm Bill).

- F. PARTICIPATION IN SIMILAR ACTIVITIES. This agreement in no way restricts the U.S. Forest Service or the Cooperator from participating in similar activities with other public or private agencies, organizations, and individuals.
- G. ENDORSEMENT. Any of the Cooperator's contributions made under this agreement do not by direct reference or implication convey U.S. Forest Service endorsement of the Cooperator's products or activities.
- H. NOTICES. Any communication affecting the operations covered by this agreement by the U.S. Forest Service or the Cooperator will be sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

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

To the Cooperator, at the Cooperator's address shown in the agreement or such other address designated within the agreement.

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

- I. USE OF U.S. FOREST SERVICE INSIGNIA. In order for the Cooperator to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications (Washington Office). A written request will be submitted by the White River National Forest's Public Affairs Officer to the Office of Communications Assistant Director, Visual Information and Publishing Services prior to use of the insignia. The White River National Forest's Public Affairs Officer will notify The Cooperator when permission is granted.
- J. PROPERTY IMPROVEMENTS. Improvements placed by The Cooperator on National Forest System land at the direction or with the approval of the U.S. Forest Service become property of the United States. These improvements are subject to the same regulations and administration of the U.S. Forest Service as would other national forest improvements of a similar nature. No part of this agreement entitles The Cooperator to any interest in the improvements, other than the right to use them under applicable U.S. Forest Service regulations.



- K. PURCHASE OF ASSETS. Any assets (such as equipment, property, or improvements) purchased by the U.S. Forest Service with the Cooperator’s contributions shall become the property of the U.S. Forest Service.

- L. TERMINATION FOR COLLECTION AGREEMENTS. Either party, in writing, may terminate this agreement in whole, or in part, at any time before the date of expiration. The U.S. Forest Service shall not incur any new obligations for the terminated portion of this agreement after the effective date of termination and shall cancel as many obligations as possible. Full credit must be allowed for U.S. Forest Service expenses and all non-cancelable obligations properly incurred up to the effective date of termination.

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

- N. MODIFICATIONS. Modifications within the scope of this agreement must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 60 days prior to implementation of the requested change. The U.S. Forest Service is not obligated to fund any changes not properly approved in advance.

- O. COMMENCEMENT/EXPIRATION DATE. This agreement is executed as of the date of the last signature, and is effective through 12/31/2023 at which time it will expire. The expiration date is the final date for completion of all work activities under this agreement.

- P. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this agreement. In witness whereof, the parties hereto have executed this agreement as of the last date written below.

JENNIFER HANSEN, General Manager Date
Nevada Irrigation District

ELI ILANO, Forest Supervisor Date
U.S. Forest Service, Tahoe National Forest



The authority and format of this agreement have been reviewed and approved for signature.

XXXXXXXXXXXXXXXX, G&A Specialist
U.S. Forest Service, Pacific Southwest Region

Date

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental 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. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

Forest Service Agreement #

Cooperator Agreement #

Collection Agreement Financial Plan

Cooperator and FS Contributions

COST ELEMENTS and related data				Cooperator Contribution	FS Non-Cash Contribution	
Line Item Cost Subtotals				Subtotal	Subtotal	Combined Subtotals
PERSONNEL						
Resource Specialists (List all personnel):		# of Days	\$/Day			
Recreation Operations Staff				\$176,870.00		\$176,870.00
				\$0.00		\$0.00
				\$0.00		\$0.00
				\$0.00		\$0.00
				\$0.00		\$0.00
					\$0.00	\$0.00
					\$0.00	\$0.00
					\$0.00	\$0.00
					\$0.00	\$0.00
					\$0.00	\$0.00
Subtotal, Personnel:		0.00		\$176,870.00	\$0.00	\$176,870.00
TRAVEL						
Explanation of trips: From Where/To Where/For Whom		Vehicle Mileage Cost or Airfare Cost	# of Trips	PerDiem and Lodging		
					\$0.00	\$0.00
					\$0.00	\$0.00
						\$0.00
Subtotal, Travel:		\$0.00	0	\$0.00	\$0.00	\$0.00
EQUIPMENT						
Name and Type of Equipment:			Unit Cost	Quantity		
GOVs Holdovers					\$20,000.00	\$20,000.00
Other Equipment					\$9,500.00	\$9,500.00
Subtotal, Equipment:			\$0.00	0	\$29,500.00	\$0.00
SUPPLIES						
Name and Type of Supplies:			Unit Cost	Quantity		
Materials and Supplies					\$25,000.00	\$25,000.00
Generator Fuel Power and Utility Maintenance					\$12,500.00	\$12,500.00
					\$0.00	\$0.00
Subtotal, Supplies:			\$0.00	0	\$37,500.00	\$0.00

CONTRACTUAL					
Describe Contracts that will most likely result from this project:					
Hazard Tree Removal			\$30,000.00		\$30,000.00
Golf Cart Rental			\$7,000.00		\$7,000.00
					\$0.00
Subtotal, Contractual:			\$37,000.00	\$0.00	\$37,000.00
OTHER					
Describe Other Costs of the Project:					
					\$0.00
					\$0.00
					\$0.00
Subtotal, Other:			\$0.00	\$0.00	\$0.00
TOTAL DIRECT CHARGES			\$280,870.00	\$0.00	\$280,870.00
OVERHEAD ASSESSMENT (if applicable, see FSH 1909.13)		Insert Rate Here:	0.0%	\$0.00	
Total Party Costs			\$280,870.00	\$0.00	\$280,870.00
COST ELEMENTS SUBJECT TO NATIONAL PASS-THROUGH RATES				Cooperator Contribution	
TOTAL CHARGES					\$0.00
OVERHEAD ASSESSMENT (if applicable, see FSH 1909.13)		Insert Rate Here:			\$0.00
Total Pass-Through Costs					\$0.00
TOTAL PROJECT COSTS					\$280,870.00

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