



BOARD MEETING AGENDA SUBMITTAL

TO: GCSB Board of Directors

FROM: Peter J. Kampa, General Manager

DATE: February 14, 2023

SUBJECT: Agenda Item 6C: Adoption of a Resolution Authorizing the General Manager to Enter into an Agreement with Tuolumne Utility District for Mutual Assistance Agreement

RECOMMENDED ACTION:

Staff recommends the following action:

I Move to approve Resolution 09-2023 authorizing the General Manager to enter into a Mutual Assistance Agreement with Tuolumne Utility District.

BACKGROUND:

The district proposes to enter into a mutual assistance agreement with the Tuolumne Utilities District (TUD) so that we can establish an understanding and the requirements related to sharing equipment, expertise and staffing in the case of emergencies, shortages of the staff or the need for specialized skills in the operation and maintenance of our water and wastewater systems and infrastructure.

TUD has in the past assisted our district in troubleshooting and technical evaluation of our wastewater treatment plant and we expect that there will be opportunities in the future where they may need staffing resources or equipment during inclement weather or other disasters that may not at the time be affecting us. Under this agreement if we do not have the staff or equipment to provide mutual aid on request, there is no penalty or obligation. This agreement is based solely on providing assistance when and if resources are available by either agency.

There is no cost associated with this agreement as all relevant expenses associated with providing assistance are reimbursed by the other entity receiving the services.

ATTACHMENTS:

1. Resolution 09-2023
2. TUD mutual assistance agreement

FISCAL IMPACT:

No expenses are anticipated under this agreement, and there could be cost savings and having locally trained personnel and specialized equipment available though we don't have to purchase.

RESOLUTION 09-2023

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE GROVELAND
COMMUNITY SERVICES DISTRICT AUTHORIZING THE GENERAL
MANAGER TO ENTER INTO AN AGREEMENT WITH TUOLUMNE
UTILITY DISTRICT FOR MUTUAL ASSISTANCE AGREEMENT**

WHEREAS, the Groveland Community Services District (herein referred to as the District) is a local government agency formed and operating in accordance with Section §61000 et seq. of the California Government Code; and

WHEREAS, public water and sewer providers operate expensive and complicated infrastructure that have significant exposure to events and emergencies that could exceed their staffing and equipment resources or expertise; and

WHEREAS, the Tuolumne Utilities District and Groveland Community Services District have qualified, trained water and wastewater operations and maintenance staff and equipment, and these utilities have similar issues and needs in terms of emergency incidents and other matters that could affect the health and safety of the community; and

WHEREAS, that Tuolumne Utilities District and Groveland Community Services District desire to enter into agreement for the sharing of personnel and equipment resources providing mutual aid to ensure the safety and reliability of our water supply and wastewater treatment and disposal processes.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF GROVELAND COMMUNITY SERVICES DISTRICT to adopt Resolution 09-2023 authorizing the General Manager to enter into an Agreement with Tuolumne Utility District for Mutual Assistance Agreement.

PASSED AND ADOPTED BY THE BOARD OF DIRECTORS OF GROVELAND COMMUNITY SERVICES DISTRICT this 14th day of February 2023 by the following

vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVE:

Nancy Mora, Board President

ATTEST:

By: _____
Rachel Pearlman, Board Secretary

CERTIFICATE OF SECRETARY

I, Rachel Pearlman, the duly appointed and acting Secretary of the Board of Directors of the Groveland Community Services District, do hereby declare that the foregoing Resolution was duly passed and adopted at a Regular Meeting of the Board of Directors of the Groveland Community Services District, duly called and held on February 14, 2023.

DATED: _____

MUTUAL ASSISTANCE AGREEMENT

THIS MUTUAL ASSISTANCE AGREEMENT (this “Agreement”) is made and entered into effective as of **date**, by and between the Tuolumne Utilities District, a public agency (the “TUD”), and the Groveland Community Services District, (the “GCSD”).

Recitals

A. The TUD and the GCSD have determined that it would be in their mutual best interests to periodically lend to each other equipment, supplies and personnel, and to otherwise cooperate with and assist each other in the event of an emergency or in other situations where one agency has insufficient resources to undertake a necessary public project or activity.

B. The parties desire to set forth herein the terms on which they may provide mutual assistance through the sharing of resources.

NOW, THEREFORE, the parties agree as follows:

1. Requests for Assistance. In the event that either party to this Agreement (the “Borrower”) has a need for the equipment, supplies, personnel or other resources of the other party hereto (the “Lender”) for purposes of undertaking a necessary public project or activity, the Borrower may request that the Lender provide such resources. Any such request shall be submitted as follows:

If to the TUD: Tuolumne Utilities District
 18885 Nugget Blvd.
 Phone: (209) 532-5536
 Attn: General Manager

If to the GCSD: Groveland Community Services District
 18966 Ferretti Rd.
 Groveland, Ca 95321
 Phone: (209) 962-7161
 Attn: Peter Kampa

2. Discretion by Lender. The Lender shall have the absolute discretion to approve or decline any request for assistance and shall have no liability to the Borrower for failing to provide such assistance. It is understood and agreed that the Lender will grant a request for assistance only where the Lender has determined that it has the requested resources available and will be able to meet its

own needs while rendering assistance. The execution of this Agreement shall not create any duty to grant any assistance requested by the Borrower.

3. Equipment. If the Lender loans equipment to the Borrower, such as construction equipment, vehicles, tools, pumps, or generators, such loaned equipment shall be subject to the following conditions:

- (a) If the Lender so determines, the loaned equipment shall be operated by the Lender's personnel, which personnel will then be provided with the equipment.
- (b) The loaned equipment shall be returned to the Lender within the first to occur of (i) 24 hours after completion of the project for which the equipment was provided, or (ii) 24 hours after the Lender delivers to the Borrower a written request that the equipment be returned.
- (c) The Borrower shall, at its own expense, supply all fuel, lubrication, and maintenance for the equipment. The Lender may, at its option, charge the Borrower for costs related to the transportation, handling, loading, and unloading of the equipment.
- (d) Reimbursement for vehicles and equipment will be calculated at the hourly rates for such vehicles and equipment, or the closest mutually agreed upon equivalent, in the CalTrans Labor Surcharge and Equipment Rental Rate Book.
- (e) In the event loaned equipment is damaged while in the custody or use of the Borrower, the Borrower shall reimburse the Lender for the reasonable cost of repairing such damage. If the equipment cannot be repaired or has been destroyed, the Borrower shall reimburse the Lender for the cost of replacing the equipment with comparable equipment. If the Lender is required to lease replacement equipment while the loaned equipment is being repaired or replaced by the Borrower, the Borrower shall reimburse the Lender for such lease costs.

4. Supplies. The Borrower shall reimburse the Lender in kind or at the actual replacement cost for the use of expendable or non-returnable supplies provided by the Lender. Supplies of reusable items that are returned to the Lender in a clean and undamaged condition will not be charged to the Borrower.

5. Personnel. In the event the Lender makes its personnel available to the Borrower, the Borrower will reimburse the Lender for such personnel's applicable salary or hourly wage plus benefits and insurance, including workers' compensation insurance, while the personnel is providing services to the Borrower. Personnel so loaned to the Borrower will be under the supervision and control of the Lender. The Lender will be responsible for all direct and indirect costs associated with workers' compensation claims arising in connection with work performed by the Lender's personnel while on loan to the Borrower.

6. Term. This Agreement shall commence as of the effective date set forth above and shall continue until terminated by thirty (30) days written notice by one party to the other.

7. Indemnity. To the extent permitted by law, Borrower shall defend, indemnify and hold harmless Lender, its directors, officers, employees, and authorized volunteers from and against all claims, damages, losses and expenses, including reasonable attorneys' fees and costs to defend arising out of the performance of the work described herein, and caused in whole or in part by any negligent act or omission of the Borrower, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the Lender, its directors, officers, employees, and authorized volunteers.

To the extent permitted by law, Lender shall defend, indemnify and hold harmless Borrower, its directors, officers, employees, and authorized volunteers from and against all claims, damages, losses and expenses, including reasonable attorneys' fees and costs to defend arising out of the performance of the work described herein, and caused in whole or in part by any negligent act or omission of the Lender, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the Borrower, its directors, officers, employees, and authorized volunteers.

8. Insurance. Each Party shall procure and maintain for the duration of the agreement, insurance against claims for injuries or death to persons or damages to property which may arise from or in connection with the performance of the work hereunder and that results from that work.

Each Party shall maintain comprehensive general liability insurance in an amount not less than \$2,000,000 combined single limit, worker's compensation insurance as required by law and automobile liability insurance for all vehicles to be used in the performance of services under the agreement. Upon request, Each Party shall provide proof of such insurance coverages naming the Other Party its directors,

officers, employees, and authorized volunteers as certificate holder and additionally insured on the General Liability policy with respect to their operation (as broad as ISO Form # CG 20 10 10 01). For any claims related to this project, the insurance coverage shall be primary (at least as broad as ISO Form # CG 20 01 04 13). Regarding the workers' compensation insurance, Each Party hereby agrees to waive rights of subrogation to obtain endorsement necessary to affect this waiver of subrogation in favor of the Other Party; this provision applies regardless of whether or not the Other Party has received a waiver of subrogation from the insurer.

If broader coverage and/or higher limits than the minimums shown above, the Other Party requires and shall be entitled to the broader coverage and/or higher limits maintained by Each Party. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Each Party. Each Party understands and acknowledge that coverage may be provided through a joint power's authority pursuant to a joint powers agreement.

9. Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

10. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the parties hereto.

11. Professional Fees. In the event of any action or suit arising in connection with the enforcement or interpretation of any of the covenants or provisions of this Agreement, the prevailing party shall be entitled to recover all costs and expenses of the action or suit, including actual attorneys' fees, accounting fees and any other professional fees incurred in connection therewith.

12. Entire Agreement/Amendments. This Agreement (including all exhibits attached hereto) is the final expression of and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings and communications with respect thereto. This Agreement may not be modified, changed, supplemented, or terminated, nor may any obligations hereunder be waived, except by a written instrument signed by the party to be charged. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

13. Construction. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared the same. Unless otherwise indicated, all references to paragraphs and subparagraphs are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference.

14. Governing Law. The parties hereto expressly agree that (i) this Agreement shall be governed by, interpreted under and enforced in accordance with the laws of the United States of America and the State of California, (ii) in the event of any dispute, the parties shall be subject to the jurisdiction of the courts of the State of California, regardless of their place of residence, and (iii) in any action arising in connection with this Agreement, venue shall be in the County of Tuolumne, State of California, United States of America.

15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

16. Facsimile or Electronic Signatures. In the event executed copies of this Agreement are provided by one party to the other(s) by facsimile transmission, the original copies shall be sent by the signing party to the other party(ies) as soon as reasonably feasible, and pending the receipt thereof, the facsimile copies and the signatures thereon shall for all purposes be treated as originals. Upon mutual agreement of the Parties, the Agreement may be executed using electronic signatures.

17. Further Assurances. The parties agree to take such actions and execute such documents as may be reasonably required to carry out the intent of this Agreement.

18. Waiver. Any failure by the Parties to enforce any provision of this Agreement or any waiver thereof by a Party, shall not constitute a waiver of its right to enforce subsequent violations of the same or any other terms or conditions contained herein.

19. Assignment. Neither party may assign its rights or delegate its obligations under this Agreement, in whole or in part, without the prior written consent of the other party.

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

TUOLUMNE UTILITIES DISTRICT [OTHER]

By: _____ By: _____
Don Perkins, General Manager Peter Kampa, General Manager

ATTEST:

ATTEST:

By: _____
Melissa McMullen, Executive
Secretary/Board Clerk

By: _____
Rachel Pearlman, Board Secretary