

BIJOU AREA EROSION CONTROL PROJECT, PHASE 1 LICENSE AGREEMENT

Summary: Staff recommends authorization of a license agreement with the City of South Lake Tahoe on one Conservancy parcel in support of the Bijou Area Erosion Control Project, Phase 1.

Location: One Conservancy parcel (El Dorado County Assessor Parcel Number (APN) 025-360-18) within the project boundary west of Glenwood Way and east of Bijou Meadow (Attachment 1)

Fiscal Summary: The proposed authorization would result in minor incidental staff costs related to the preparation and processing of the agreement.

Recommended Action: Adopt Resolution 13-06-02 (Attachment 2)

Background

In 2004, the City of South Lake Tahoe (City) initiated planning to assess and develop solutions for erosion and stormwater quality problems in the 1,300-acre Bijou Creek Watershed. In 2007, the City completed its watershed-scale assessment, which identified erosion control needs, prioritized treatment areas, and recommended several independent capital improvement projects in the watershed to be pursued under the Environmental Improvement Program (EIP).

The City subsequently completed additional planning and design documents to develop project alternatives. Based on these analyses, the Bijou Commercial Core was identified as having the most significant water quality problems in the watershed and deemed the highest priority area for improvements. The primary water quality concerns in the Commercial Core result from densely developed and highly impervious commercial areas, and the heavily used roadways and associated traction abrasives. These land uses generate stormwater with high concentrations of pollutant loads, which is currently conveyed without treatment directly into Lake Tahoe (Lake) via an obsolete and undersized culvert system. Monitoring data from the Bijou outfall have

consistently shown some of the highest pollutant concentrations observed around the entire Lake.

The City proposes construction of the Bijou Area Erosion Control Project (Project) comprehensive regional stormwater treatment system, to pre-treat and pump runoff generated in the Commercial Core to an upstream location in the watershed for infiltration. This advanced treatment strategy was selected due to the lack of suitable land to support traditional treatment opportunities in the lower watershed (i.e., passive detention and infiltration basins), and because of its superior ability to remove fine sediment from the stormwater runoff. The Project will significantly contribute to reductions in the stormwater pollutant load entering the Lake from the project area, thereby contributing to the City's efforts in achieving its Total Maximum Daily Load reduction objectives.

To date, the Conservancy Board (Board) has authorized \$1,600,000 for planning erosion control improvements within the Bijou Creek Watershed, and \$688,526 for property acquisitions necessary to support the Project. Additional Project funding is being provided by the U.S. Forest Service, Lake Tahoe Basin Management Unit (LTBMU), the California Department of Transportation (Caltrans), the Department of Water Resources (DWR), and the Tahoe Regional Planning Agency (TRPA).

At this time the City has secured adequate funding and the contract was recently awarded to Preston Pipelines Inc. for \$10,921,349 with a 10% construction contingency. Construction is anticipated to begin in June, 2013.

In September, 2011, the Board authorized the amendment of an existing Conservancy conservation easement to facilitate the City's acquisition and installation of a subsurface drainage culvert and related subsurface improvements. At that time the Board also authorized license agreements on seven Conservancy parcels in support of the Project.

Project Description

The City has identified an additional need for use of Conservancy-owned property within the Project area to support Project construction. Conservancy staff has reviewed the request and recommends that the Board authorize a license agreement with the City, which would provide rights for the use of El Dorado County APN 025-360-18 for dewatering activities necessary for construction of the Project.

The proposed dewatering activities would include sprinkling and/or dispersed spreading of construction water around the parcel. The use of the property as a

dewatering area would assist the City by increasing the area available to infiltrate, and thereby treat, water encountered during various subsurface Project excavations. Maximizing the land area available for construction dewatering would greatly enhance the City's ability to comply with the Project's permit requirements.

The City has two existing easements on the property to support the Project, including a permanent easement for a force main pipe on the southern parcel boundary, and a temporary easement for the Project's construction staging and storage of equipment and materials. Conservancy staff is proposing additional rights for this property, to be executed in the form of a license agreement, which would allow El Dorado County APN 025-360-18 to also be utilized for dewatering activities in support of the Project.

The subject parcel, commonly referred to as the drive-in property due to its former use as a drive-in movie theatre, was acquired in 2012 through a land exchange between the Conservancy and the City. This land exchange was authorized by the Board at the March 2012 Board meeting. The subject property is currently being advertised for sale as part of the Conservancy's Asset Land Sales Program. Potential sale of the property may occur as early as fall 2013, which may limit the term of this proposed license agreement as described in more detail below.

Project Schedule

Project construction is anticipated to begin early in summer 2013 and is scheduled for completion by fall 2014. The proposed license agreement would last three years, extending through fall 2015. However, due to the potential sale of this property, in the event that the Conservancy transfers ownership of this parcel in fall 2013 or thereafter, the license will be revoked and the City's dewatering activities will be suspended.

Project Implementation

Upon Board approval, staff intends to enter into the license agreement referenced above and take all necessary actions to implement the agreement. The license for temporary dewatering includes provisions related to permitting, restoration, insurance, and indemnification. Consistent with Board direction under the Conservancy's Special Use Program, the City has not been charged a fee for the use of Conservancy property for improvements associated with its water quality projects.

Project Evaluation

The proposed license agreement, which would give the City rights of use and access on the Conservancy-owned parcel, is consistent with the Conservancy's adopted Special Use Guidelines and the Conservancy's Soil Erosion Control Program Guidelines. The license agreement will contain standard language requiring the City to provide insurance, performance bonds, and indemnification, as well as restoration of any damage to the Conservancy parcel.

The Project supports regional planning and resource management objectives in the Lake Tahoe Basin and is being pursued in accordance with the EIP. The City has been coordinating its efforts with Caltrans, which has obligated up to \$4,735,000 towards this comprehensive erosion control project. The water quality improvements for U.S. Highway 50 were designed by Caltrans to integrate with the City's plans. This coordination effort is providing improvements that will meet the goals of multiple agencies and programs involved in the EIP.

The City has obtained all necessary permits for construction and is required to comply with all regulatory requirements established by TRPA and other agencies.

Consistency with the Conservancy's Enabling Legislation

The recommended license is consistent with the Conservancy's enabling legislation. Specifically, Government Code section 66907.8 authorizes the Conservancy to lease, rent, sell, exchange, or otherwise transfer any interest in real property or interest therein to local public agencies, individuals, corporate entities, or partnerships for management purposes. Under Government Code section 66907.9, the Conservancy is authorized to initiate, negotiate, and participate in agreements for the management of land under its ownership or control with local public agencies, state agencies, federal agencies, nonprofit organizations, individuals, corporate entities or partnerships, and to enter into any other agreements authorized by state or federal law.

Compliance with the California Environmental Quality Act

The City of South Lake Tahoe, acting as the lead agency, prepared an Initial Study (IS) and Mitigated Negative Declaration (MND) for this project in compliance with CEQA. The City adopted the MND on August 11, 2011, and a Notice of Determination (NOD) was filed on August 12, 2011.

A copy of the IS/MND, including any public comments and responses, has been provided to the Board on CD (Attachment 3) and is available for public review at the Conservancy office, 1061 Third Street, South Lake Tahoe, CA 96150.

Staff has reviewed the MND and believes the proposed activities have been adequately analyzed in this document. Staff has determined that the Project, as proposed, would not cause a significant effect on the environment. Since completion of the IS/MND, there is no new information, substantial changes to the proposed Project, or changes to project implementation, which would involve any new significant effects which were not analyzed in the MND. As a result, no new mitigation measures are needed to find that the Project, as mitigated, would have no significant environmental impacts. The mitigation measures for the Project can be found on pages ii-iii of the MND.

Staff recommends the Board review and consider the IS/MND prepared and adopted by the City, together with any comments reviewed during the public review process, and make the findings as set forth in the Resolution (Attachment 2). If the Board considers and concurs with the IS/MND and authorizes the license agreement with the City, staff will file a NOD with the State Clearinghouse pursuant to CEQA Guidelines, section 15096 (Attachment 4).

List of Attachments:

Attachment 1 – Project Location Map

Attachment 2 – Resolution 13-06-02

Attachment 3 – City of South Lake Tahoe Initial Study and Mitigated Negative Declaration and Addendum (on attached CD)

Attachment 4 – Conservancy Notice of Determination

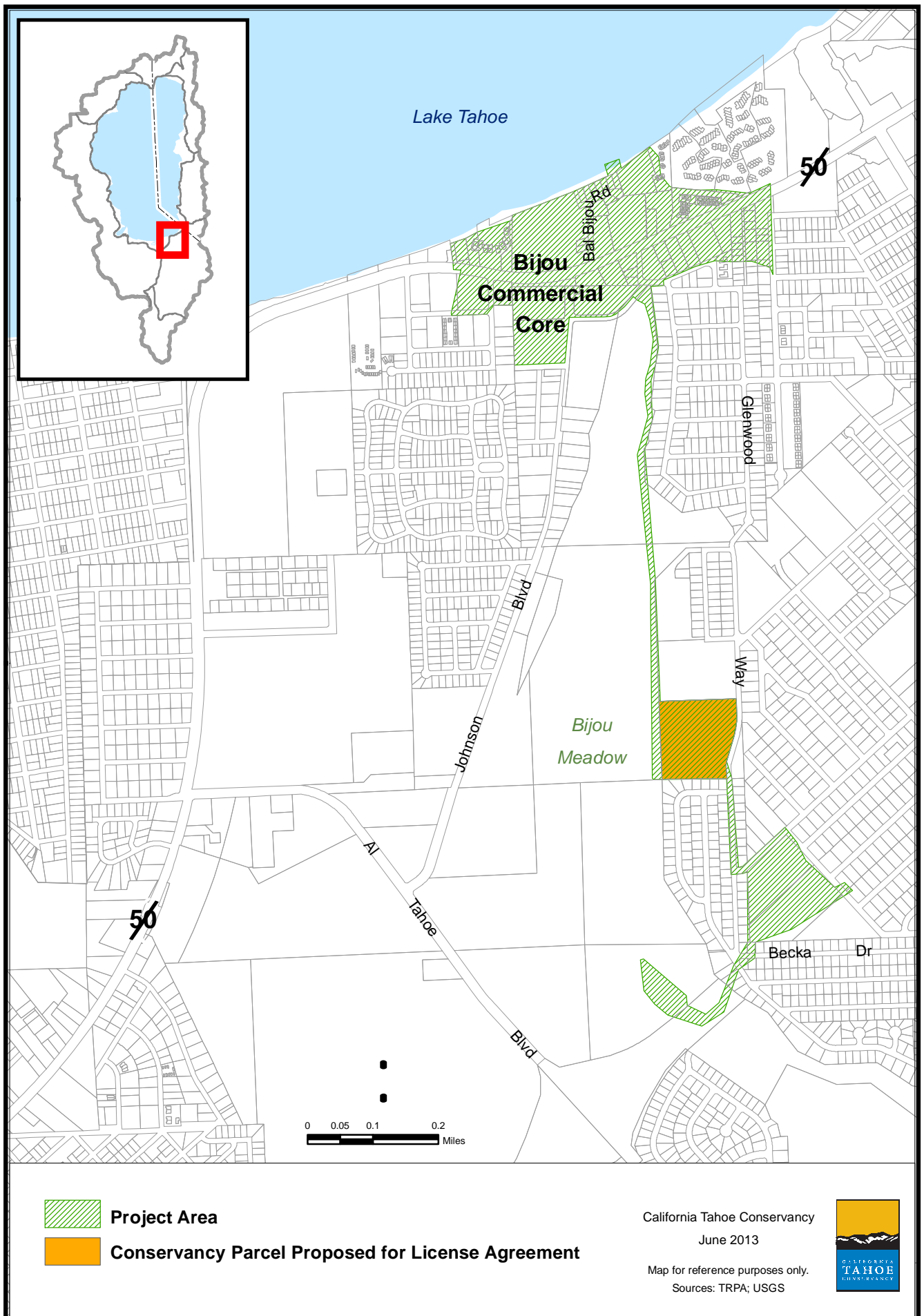
Conservancy Staff Contact:

Stuart Roll

(530) 543-6031

stuart.roll@tahoe.ca.gov

ATTACHMENT 1
Project Location Map



ATTACHMENT 2

California Tahoe Conservancy

Resolution

13-06-02

Adopted: June 20, 2013

BIJOU AREA EROSION CONTROL PROJECT, PHASE 1 LICENSE AGREEMENT

Staff recommends that the Conservancy make the following findings based on the accompanying staff report pursuant to Public Resources Code section 21000 et seq.:

“The California Tahoe Conservancy, in its role as a responsible agency under the California Environmental Policy Act, has reviewed and considered the Bijou Area Erosion Control Project, Phase 1 Initial Study and Mitigated Negative Declaration (IS/MND) certified by the City of South Lake Tahoe on August 12, 2011. The Conservancy has determined that the project as proposed will not cause a significant effect on the environment. There is no new information, substantial changes to the proposed project, or changes to project implementation, which would involve any new significant effects which were not analyzed in the MND. Furthermore, since the City of South Lake Tahoe’s certification of the MND, there are no changes regarding the project that would require new or different mitigation measures. The potential significant adverse effects will be mitigated by the mitigation measures, and the Conservancy adopts these mitigation measures as a condition of the project. Accordingly, the Conservancy finds that the MND is adequate for compliance with CEQA for authorizing the license agreement and directs staff to file a Notice of Determination for this project with the State Clearinghouse.”

Staff further recommends that the Conservancy adopt the following resolution pursuant to Government Code sections 66907.8 and 66907.9:

"The California Tahoe Conservancy hereby authorizes staff to enter into a license agreement with the City of South Lake Tahoe, over portions of El Dorado County Assessor Parcel Number 025-360-18, to permit temporary dewatering activities associated with the Bijou Erosion Control Project, Phase 1, and authorizes staff to take all other necessary steps consistent with the accompanying staff recommendation."

I hereby certify that the foregoing is a true and correct copy of the resolution duly and regularly adopted by the California Tahoe Conservancy at a meeting thereof held on the 20th day of June 2013.

In WITNESS THEREOF, I have hereunto set my hand this 20th day of June 2013.

Patrick Wright
Executive Director

ATTACHMENT 3

BIJOU AREA EROSION CONTROL PROJECT, PHASE 1

City of South Lake Tahoe Initial Study
Mitigated Negative Declaration

On attached CD

ATTACHMENT 4

NOTICE OF DETERMINATION

TO: Office of Planning and Research
1400 10th Street, Room 121
Sacramento, CA. 95814

FROM: California Tahoe Conservancy
1061 Third Street
South Lake Tahoe, CA. 96150

Subject:

Filing of Notice of Determination in compliance with section 21108 of the Public Resources Code.

Project Title:

Bijou Area Erosion Control Project, Phase 1 License Agreement with the City of South Lake Tahoe.

State Clearinghouse Number:

2011062012

Contact Person:

Stuart Roll

Telephone Number:

(530) 543-6031

Project Location:

Conservancy-owned El Dorado County Assessor Parcel Number 025-360-18 within the Project boundary west of Glenwood Way and east of Bijou Meadow.

Project Description:

The project proposes to acquire easements, construct, maintain, and improve stormwater facilities, and implement erosion control practices for the Bijou Erosion Control Project, Phase 1 as identified in the Lake Tahoe Environmental Improvement Program.

This is to advise that the California Tahoe Conservancy, acting as a responsible agency, has approved the above-described project on June 20, 2013 and has made the following determinations:

1. The project will not have a significant effect on the environment.
2. A Mitigated Negative Declaration for the project was prepared and approved by The City of South Lake Tahoe on August 11, 2011, and a Notice of Determination was filed on August 12, 2011. The Notice of Determination, Mitigated Negative Declaration, and record of project approval may be examined at the City of South Lake Tahoe at 1051 Tata Lane, South Lake Tahoe, California 96150. The California Tahoe Conservancy previously reviewed and considered the Mitigated Negative Declaration prepared by The City of South Lake Tahoe prior to project approval.
3. Mitigation measures were made a condition of project approvals by The City of South Lake Tahoe and the California Tahoe Conservancy.
4. The Conservancy finds that no substantial changes are proposed in the project, and no substantial changes have occurred with respect to the circumstances under which the project

is being implemented that would result in any potentially significant environmental effects. Furthermore, there are no changes regarding the project that would require new or different mitigation measures.

Fish and Wildlife Fees: City paid \$2,094 on 8/12/11

Date Received for Filing:

Patrick Wright
Executive Director