



CITY OF FERNLEY

CITY COUNCIL AGENDA REPORT

Meeting Date: January 5, 2022

REPORT TO: Mayor and City Council
REPORT FROM: Daphne Hooper, City Manager
REVIEWED BY: David Rigdon, Special City Water Attorney
REVIEWED BY: Denise Lewis, City Treasurer

FINANCIAL IMPACT:

Yes: No:

CURRENTLY BUDGETED:

Yes: No:

FUND/ACCOUNT:

510-810-698

ACTION REQUESTED: Consent Ordinance Resolution Motion Receive/File

AGENDA ITEM: Staff Report (For Possible Action): Approve and extend the joint funding agreement between the City of Fernley and the State of Nevada, Truckee Meadows Water Authority, Washoe County, City of Reno, and City of Sparks to pay Nevada's share of costs for the administration of the Truckee River Operating Agreement.

Agenda Item Brief: The joint funding agreement between the City of Fernley and the State of Nevada, Truckee Meadows Water Authority, Washoe County, City of Reno, and City of Sparks extends the agreement to address apportionment of costs through 2024.

Recommended Motion:

"I move to approve the Joint Funding Agreement and authorize the mayor to execute the Agreement on behalf of the City of Fernley."

Business Impact (per NRS Chapter 237):

- A Business Impact Statement is Attached.
- A Business Impact Statement is not required because this is not a rule (term excludes vehicles by which legislative powers are exercised under NRS Chapters 271, 278, 278A, or 278B).

See attached report for background, analysis, alternatives.

ALTERNATIVES:

- Council may request additional information.

BACKGROUND:

The Truckee River Operating Agreement (“TROA”) is the negotiated agreement that controls the management of Truckee River water resources. Section 2.C.2 of the agreement provides for the apportionment of the costs to administer TROA. The costs are split between the United States (40%), Nevada (40%), and California (20%).

The federal water master’s current budget for administering TROA is \$1.5 million annually although this amount is tentative and subject to change. Nevada’s share of the current annual budget is \$600,000.

There is no provision with TROA providing how Nevada’s share of the costs should be allocated between the Nevada parties (Truckee Meadows Water Authority (“TMWA”), Washoe County and the Cities of Reno, Sparks, and Fernley). In 2018, representatives of the Nevada parties began meeting to negotiate an apportionment formula. The result of these negotiations is the proposed Joint Funding Agreement. The Joint Funding Agreement sets an allocation for the first three years (federal FY’s 20,21, and 22). That cost allocation is as follows:

TMWA	60%	(\$360,000)
Washoe County	10%	(\$60,000)
City of Reno	10%	(\$60,000)
City of Sparks	10%	(\$60,000)
City of Fernley	10%	(\$60,000)

Since the Joint Funding Agreement was entered into the Washoe County Water Conservation District has taken steps to impose the annual fee allowed by Section 7.A.2(b)(3) of the Operating Agreement, which fee is an expense of administration of the Operating Agreement and is apportioned among the United States, California, and Nevada as provided in Section 2.C.2 of the Operating Agreement (the “Conservation District Fee”). The Conservation District Fee will be imposed beginning in fiscal year October 1, 2021. The parties agree that Nevada’s Share of the Conservation District Fee will be apportioned among them as outlined below:

Article III of the Joint Funding Agreement is amended as follows:

Apportionment of Nevada Share of Operating Agreement Administration Expenses

For the fiscal years beginning October 1, 2021, October 1, 2022, October 1, 2023 and October 1, 2024, Nevada’s share of the administration expenses of the Operating Agreement, including the Conservation District Fee, as finally approved in accordance with the Operating Agreement, which approval, includes, ratification by order of the Orr Ditch Court, will be paid 60% by TMWA, 20% by Washoe County, 10% by Reno, 10% by Sparks, and 10% by Fernley....

Article IV of the Joint Funding Agreement is hereby amended as follows:

Apportionment of Nevada Share of Fiscal Years After October 1, 2024

Through their respective representatives, TMWA, Washoe County, Reno, Sparks and Fernley agree to in good faith consider and attempt to reach agreement on how the Nevada Share should be apportioned among them for fiscal years after the year commencing October 1, 2024. Those representatives will complete that consideration on or before June 30, 2025. If an agreement is reached on such apportionment by June 30, 2024, the parties will memorialize that agreement by an amendment to this Agreement. Until such time ... they will apportion and pay the Nevada Share as provided in Article III....

Article V of the Joint Funding Agreement is hereby amended as follows:

Resolution of Apportionment of Nevada Share After October 1, 2024.

If TMWA, Washoe County, Reno, Sparks, and Fernley are unable to agree on apportionment of the Nevada Share among them by June 30, 2025, then upon notice by any party to the others, the apportionment shall be

finally resolved by binding arbitration by the Truckee River Special Hearing Officer acting as the selected arbitrator....

FINANCIAL IMPLICATIONS:

Funding will be budgeted in each Fiscal Year to ensure payment will be made.

ATTACHMENTS:

Draft Agreement.