

FIRST AMENDMENT TO JOINT FUNDING AGREEMENT

This First Amendment to Joint Funding Agreement is made and entered into this day ____ of _____, 2021 by and among the State of Nevada, the Department of Conservation and Natural Resources, Division of Water Resources (hereinafter “Nevada”), Truckee Meadows Water Authority (hereinafter “TMWA”), the County of Washoe (hereinafter “Washoe County”), the City of Reno (hereinafter “Reno”), the City of Sparks (hereinafter “Sparks”), and the City of Fernley (hereinafter “Fernley”), and collectively referred to as the “Parties.”

R E C I T A L S

1. On or about August 8, 2019, the Parties entered into a Joint Funding Agreement (the “JFA”) providing for the manner in which the State of Nevada’s share of the expenses of administration of the Truckee River Operating Agreement (the “Nevada Share”) would be apportioned among them and by when and how those payments would be made.

2. The JFA covered payments of the Nevada Share for the fiscal years beginning October 1, 2019, October 1, 2020 and October 1, 2021.

3. The Parties desire to provide for the manner in which the Nevada Share will be apportioned among them for the fiscal years beginning October 1, 2022, October 1, 2023 and October 1, 2024 and to amend the JFA accordingly.

4. Since the JFA 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”).

5. It is expected that the Conservation District Fee will be imposed beginning in fiscal year October 1, 2021.

6. The Parties desire to confirm that Nevada's Share of the Conservation District Fee will be apportioned among them as provided herein.

NOW, THEREFORE, the Parties hereto, intending to be legally bound hereby, and in consideration of the mutual covenants and promises herein contained, agree as follows:

1. Article III of the JFA is hereby amended to read as follows:

ARTICLE III

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, 10% by Washoe County, 10% by Reno, 10% by Sparks, and 10% by Fernley. Each party will pay its share of those expenses to Nevada by no later than September 1st prior to the beginning of the next fiscal year. The payments will be made to Nevada by means of an electronic payment as directed by Nevada. Nevada will timely transmit the Nevada Share to the Administrator as required by the Operating Agreement and approved budget.

2. Article IV of the JFA is hereby amended to read as follows:

ARTICLE IV

Apportionment of Nevada Share for 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, 2025, the Parties will memorialize that agreement by an amendment to this Agreement. Until such time as TMWA, Washoe County, Reno, Sparks, and Fernley reach a different agreement concerning such apportionment, they will apportion and pay the Nevada Share as provided in Article III. If an agreement on apportionment of the Nevada Share is not reached by June 30, 2025, the apportionment shall be resolved as provided in Article V.

3. Article V of the JFA is hereby amended to read as follows:

ARTICLE V

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. The rules and procedures of the Truckee River Special Hearing Officer shall be the rules for the arbitration. The decision of the Truckee River Special Hearing Officer shall be final. The costs and fees associated with the arbitration shall be determined and assessed by the Truckee River Special Hearing Officer as provided in Section 2.C.4 of the Truckee River Operating Agreement. If the Truckee River Special Hearing Officer cannot or will not serve as the selected arbitrator, representatives of TMWA, Washoe County, Reno, Sparks and Fernley will select an alternate arbitrator approved by all of them. TMWA, Washoe County, Reno, Sparks and Fernley shall adjust payments made by them under this Agreement between October 1, 2025 and the final decision of the arbitrator to conform to that decision.

4. This First Amendment to Joint Funding Agreement may be executed in counterparts, all of which will constitute one and the same agreement.

5. Except as expressly modified herein, the JFA shall remain in full force and effect and the Parties shall be bound by all the terms and conditions thereof.

IN WITNESS WHEREOF, the Parties hereto have executed and delivered this First Amendment to Joint Funding Agreement as of the date and year first above written.

STATE OF NEVADA

TRUCKEE MEADOWS WATER
AUTHORITY

By: _____
State Engineer, Division of Water Resources

By: _____
Chairman, Board of Directors

Approved as to Form:

Deputy Attorney General
CITY OF RENO

COUNTY OF WASHOE

By: _____

By: _____

Mayor

Chairman, Board of County Commissioners

Approved as to Form:

Approved as to Form:

Deputy City Attorney

Deputy District Attorney

Attest: _____
City Clerk

Attest: _____
County Clerk

CITY OF SPARKS

CITY OF FERNLEY

By: _____
Mayor

By: _____
Mayor

Approved as to Form:

Approved as to Form:

Deputy City Attorney

Deputy City Attorney

Attest: _____
City Clerk

Attest: _____
City Clerk