

**AMENDMENT #1 to
Memorandum of Understanding
A Contract Between the State of Nevada
Acting By and Through Its
Department of Conservation and Natural Resources and
Washoe County, a political Subdivision of the State of Nevada Acting by and
Through its Community Services Department-Regional Parks and Open Space**

1. **AMENDMENTS.** For and in consideration of mutual promises and/or their valuable considerations, all provisions of the original contract, attached hereto as Exhibit A, remain in full force and effect with the exception of the following:
 - A. Extends the current expiration date from June 30, 2019 to June 30, 2020 and corrects a typographical error in the original contract term language.

Current Contract Language:

CONTRACT TERM. This Contract shall be effective from **July 1, 2014** to **June 30, 2019** and may only be terminated following completion of the Truckee River.

Corridor projects as outlined by Washoe County and the completion of all requirements in this agreement or by return of grant money upon determination by the recipient's governing body that the proposed project is not feasible.

Amended Contract Language:

CONTRACT TERM. This Contract shall be effective from **July 1, 2014** to **June 30, 2020** and may only be terminated following completion of the Truckee River corridor projects as outlined by Washoe County and the completion of all requirements in this agreement or by return of grant money upon determination by the recipient's governing body that the proposed project is not feasible.

2. **INCORPORATED DOCUMENTS.** Exhibit A (Original Contract) is attached hereto, incorporated by reference herein and made a part of this amended contract.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

WASHOE COUNTY, NEVADA

Acting by and through its Board of Commissioners

By _____
Dave Solaro, Assistant County Manager

_____ Date

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

By _____
Bradley Crowell, Director

_____ Date

Attorney General
(Signature as to form)

_____ Date

Memorandum of Understanding
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WHEREAS, the Legislature in special session in 2001 approved Assembly Bill 9, which required the submission to the voters of the proposal to issue general obligation bonds to preserve and protect the state's natural resources (commonly called Q1 or AB 9; hereinafter referred to AB 9); and

WHEREAS, at the general election on November 5, 2002, the voters of this state approved a proposal to issue general obligation bonds to preserve and protect and obtain the benefits of the property and natural resources of this state; and

WHEREAS, the voters approved the issuance of \$200,000,000.00 in general obligation bonds; and

WHEREAS, under Section 2, Subsection 6 of the enabling legislation it calls for an amount of \$10,000,000 must be allocated to Washoe County to enhance and restore the Truckee River corridor. The money must be used to: acquire and develop land and water rights; provide for recreational facilities; provide parking for and access to and along the river; or restore the Truckee River; and

WHEREAS, Washoe County shall match the allocation made pursuant to Section 2, Subsection 6, with an amount of money or value of services, materials or equipment that is equal to 50 percent of each project that is completed pursuant to this subsection; and

WHEREAS, the Legislature during the 2003 session approved a statewide tax levy to repay the principal and interest on the bonds; and

WHEREAS, the Director of the Department of Conservation and Natural Resources (DCNR) is charged with administering the Fund to Protect Natural Resources into which bond sale proceeds will be deposited, and with prescribing the method which governmental entities that have been allocated funds under section 2 of AB 9 may request money from the fund; and

WHEREAS, this memorandum of Understanding (MOU) is intended to be a binding agreement governing the application process, the determination of qualified projects eligible for AB 9 funds, the requirement of matching funds, and the eligibility of in kind services, materials, and equipment offered by the applicant to meet its match requirement, as well as other matters necessary for the administration of the Fund;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

REQUIRED APPROVAL. This MOU shall not become effective until and unless approved by the Director of DCNR and the governing body of the applicant agency or organization.

DEFINITIONS

State: The State of Nevada, its Department of Conservation and Natural Resources (DCNR), its agencies, officers and employees.

Washoe County: The County of Washoe, its Community Services Department, officers and employees.

Recipient: Those entities which have been allocated funds under authority of Assembly Bill 9 (AB 9), section 2, subsections 1 through 6.

Match: Money and/or value of services, material or equipment that have been or will be expended or utilized directly upon the completion of a covered project. Match is an item that would be an allowable expenditure under the work plan.

Eligible expenses: Expenses that are directly related to the project. Eligible expenses to not include indirect and administrative overhead costs such as salaries and benefits. The Director of DCNR retains the discretion to exclude from reimbursement under this agreement any proffered eligible expenses as an indirect expense.

Cash reimbursement: Direct payment to the recipient in cash for eligible expenses incurred after November 5, 2002.

Bond Cash on Hand: Bond proceeds held, as unexpended, by the recipient during any stage of a covered project.

Work Plan and Status Report: Mandatory form available from DCNR for reporting purposes.

Outlay Report: Mandatory form available from DCNR for reporting purposes.

Total Bond allocation: An amount of money available to the recipient not to exceed the \$10,000,000 allocated to the recipient in AB 9.

CONTRACT TERM. This Contract shall be effective from **July 1, 2014 to June 30, 2019** and may only be terminated following completion of the Truckee River.

Corridor projects as outlined by Washoe County and the completion of all requirements in this agreement or by return of grant money upon determination by the recipient's governing body that the proposed project is not feasible.

A. General Requirements

1. Bond proceeds granted under this agreement may be used for any project authorized under the terms of AB 9. The project must have begun on, or after

July 1, 2000 (the fiscal year in which AB 9 was enacted by the Nevada State Legislature) to be eligible for bond proceeds under this agreement. However, there will be no actual cash reimbursements from bond proceeds for eligible expenses incurred prior to the date of approval of Question 1 by the voters or November 5, 2002. For eligible expenses legitimately incurred between July 1, 2000 and November 5, 2002, the recipient may receive credit against its match requirement, if applicable.

2. Recipients will bear the full responsibility of properly administering funds allocated under AB 9. This responsibility includes complete and accurate accounting of funds, both bond and matching; ensuring expenditures and procurement activities are in compliance with the enabling legislation, Generally Accepted Accounting Principles and all other applicable laws and regulations. This requirement also applies to the recipient's contractors and their subcontractors. Project recipients must exercise prudent project management oversight. Prevention of project overruns/shortfalls is the responsibility of each recipient. The State of Nevada, its Department of Conservation and Natural Resources, and the AB 9 program administered under this agreement will not be obligated to supplement project funds, beyond the approved project budget, due to cost overruns, shortfalls unforeseen circumstances, or any other reason.
3. Washoe County must submit a Work Plan and Status Report for each project on the Truckee River at the time the project begins to move forward and/or annually as required, on the forms available from DCNR Director's Office. The plan must contain a brief description of each proposed project by providing the following information.
 - a) Project description;
 - b) Brief explanation justifying use and eligibility of AB 9 funds;
 - c) Project time schedule, including date project was, or will be, initiated and the estimated completion date;
 - d) Project budget and schedule of fund requests;
 - e) If applicable, identification and demonstration of required match for bond funds.

The Director reserves the right to reject any project for failure of the proposed project to qualify under the general requirements of AB 9. Washoe County has provided DCNR a binder listing all projects considered with project descriptions and indicated the Washoe County Board of County Commissioners approved projects to be funded.

4. Subsequent changes to an approved project must be documented and submitted to DCNR in advance of implementation. If the change results in a significant project amendment (either in project scope or budget line item/category) it requires submittal of a revised "Work Plan and Status Report" prior to initiation of the change.

5. Total bond allocations available to Washoe County for the Truckee River corridor project are not to exceed \$10,000,000 as indicated in AB 9.
6. Washoe County will require that all projects receiving bond funds will post an approach sign at the project site acknowledging the funding source.

B. Requests for Advances

1. Advances are subject to the following conditions:
 - a) Washoe County agrees to provide an Outlay Report on a quarterly basis until all advance amounts are spent.
 - b) Requests for advance may not exceed the total amount approved for the Truckee River corridor projects \$10,000,000.
 - c) Funds will not be disbursed to Washoe County for the purpose of simply accruing interest.
 - d) Recipients should not commingle AB 9 expenditures/funds with non- AB 9 related expenditures and must separately account for these expenditures and revenue sources.
2. The above policies for cash management apply to not only the primary recipient of the bond funds, but also their contractors and subcontractors.

C. Bond Cash on Hand, Excess Balances

1. Cash on hand, including amounts received as advances, must be spent within 3 years. The DCNR may require repayment of any unencumbered advance amount at the end of the 3-year period.
2. Cash on hand may be subject to arbitrage penalties which recipients will be required to pay from sources other than bond proceeds.
3. Any interest earned on bond proceeds must be accounted for to the AB 9 Truckee River Corridor Project Fund and can only be spent on Truckee River Corridor Projects, administered by Washoe County, and all interest earnings must be reported to DCNR.
4. The above policies for cash management apply to not only the primary recipient of the bond funds, but also their contractors and subcontractors.

D. Match

1. Washoe County must provide evidence that they have met the required match. Match credits will be granted for cash expended, or for the value of services, material or equipment after the project was begun but not prior to July 1, 2000.
2. Written records must substantiate recipient's match, including but not limited to time sheets, documentation and justification of values utilized for labor, equipment, materials, etc. All accounting documentation must be maintained by the recipient (refer to Section VI 1- Retention and Record Keeping) and is subject to audit. DCNR reserves the right to request additional documentation from the recipient regarding proffered documentation of match. DCNR

reserves the right to reject all or part of any proffered substantiation of recipient's match.

3. Improperly or insufficiently matched bond payments will be subject to repayment by the recipient (from non-AB 9 sources), in part or in total.

E. Periodic Reporting

1. Washoe County must submit annually a Work Plan and Status report to DCNR, which will provide a status of each project along with cumulative expenditures through June 30. This annual report will also require recipients to provide brief statements that will address any problems encountered, time delays expected, and any adjustments to the completion date.
2. These reports will be due to DCNR Director's Office by August 15 of each year that the project is active.
3. Supplementation of the annual reporting requirement in this section may be required in accordance with General Requirements set forth above.

F. Retention and Record Keeping

1. Washoe County agrees to maintain all records relevant to its AB 9 project for which funds were allocated in accordance with NRS Chapter 239; additionally, recipient must keep records at least six (6) years from the end of the state fiscal year (July-June) in which each project was completed.
2. If any litigation concerning the project is begun before the expiration of this six (6) year period, the individual file must be retained for six (6) calendar years from the date of resolution of the litigation; and
3. Before any files are destroyed recipient must contact the DCNR to obtain and verify final disposition instructions. This requirement also applies to the recipient's contractors and any subcontractors.
4. Examples of records subject to retention provisions are (list is not intended to be all inclusive): All fiscal/accounting records and reports; all drawings, blueprints, renderings, architect and/or engineering reports, financial estimates, Fee schedules, site proposals, photos, maps, copies of easements, copies of building permits, copies of inspections related correspondence, and all procurement activities, including contractors proposals and rates.

G. Other

1. Recipient may be subject to audit and must allow access to applicable AB 9 records, if so directed by the State of Nevada. If any audit finding reveals that either an overpayment was made, or ineligible costs were incurred (either match or bond proceeds), the overpayment or the ineligible expense must be repaid to the AB 9 Fund-Department of Conservation and Natural Resources, Carson City, Nevada.

2. Recipient agrees to comply with all policies and procedures adopted by the DCNR Director's Office and must submit project and budget information on forms prescribed by the Director's Office and within specified deadlines.
3. Improperly completed forms will not be processed, and will be returned for correction.
4. It is the policy of the Board of Examiners and the DCNR to restrict contractors, as well as all other recipients of public funds, to the same (or less) travel rates and procedures allowed state employees. This requirement also applies to the recipient's contractors and any subcontractors.
5. Certain disbursements will not be allowed. These include:
 - a. Secretarial or word processing services (normal, temporary, or overtime);
 - b. Any other staff charges for similar activities such as filing or proofreading, regardless of when incurred;
 - c. Indirect and administrative overhead costs such as salaries and benefits;
 - d. Photocopy expenses of more than 15 cents per page;
 - e. Photocopy costs in excess of \$2,000.00 for a single job;
 - f. Computer time.

The State will allow for expenses for the following:

- g. Local telephone expenses or office supply costs;
 - h. The costs of first-class travel.
6. NOTICE. All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

Director
Washoe County Community Services Department
PO Box 11130
Reno, NV 89520
(775) 328-3624

Deputy Director
Department of Conservation & Natural Resources
901 S. Stewart Street, Suite 1003
Carson City, NV 89701
(775) 687-4360

7. INDEMNIFICATION. Washoe County shall indemnify, hold harmless and defend Grantor from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the Recipient, its officer, employees and agents.

8. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.
9. ASSIGNMENT. Washoe County shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written consent of the State.

H. Entire Contract and Modification.

This Agreement and its integrated attachment(s), if any, constitute the entire agreement of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendments to this contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

IN WITNESS WHEREOF, the parties here to have caused this Contract to be signed and intend to be legally bound thereby.

WASHOE COUNTY, NEVADA
Acting by and through its Board of Commissioners

By David Humke
David Humke, Chairman

8-12-14
Date

ATTEST:
By Nancy L. Parent
Nancy Parent, County Clerk

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

By Leo M. Doyle
DCNR

8-12-14
Date /Title

Bryan Light
Attorney General (Signature as to form)

24 SEP 14
Date/Title