

JOINT FUNDING AGREEMENT

This Joint Funding Agreement (hereinafter referred to as this “Agreement”) is made and entered into this ____ of _____, 2019 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.”

RECITALS

1. Each of Nevada, TMWA, Washoe County, Reno, Sparks, and Fernley is a party to the Truckee River Operating Agreement dated September 6, 2008 (the “Operating Agreement”).
2. Section 2.C.2 of the Operating Agreement provides for the apportionment of the expenses of administration of the Operating Agreement among the United States, California, and Nevada.
3. Pursuant to Section 2.C.2(c), Nevada’s share of the expenses of administration of the Operating Agreement is 40% (the “Nevada Share”).
4. Section 2.C.3 of the Operating Agreement requires the Administrator to prepare and distribute to the Scheduling Parties and Signatory Parties an annual budget for funding requirements of the Operating Agreement.
5. After the Administrator’s annual budget is distributed, a majority of Nevada, California, and the United States must either approve the annual budget as submitted, or modify it, and thereafter it is submitted as approved or modified to the Orr Ditch Court for ratification.

6. At the present time, the State of Nevada requires that certain expenses associated with administration of interstate river systems be paid by the beneficiaries of those expenses.

7. One of the principal purposes of the Operating Agreement is to provide for the operation of Truckee River Reservoirs in a flexible and coordinated manner to meet multiple water use objectives, including reliable water supply and drought protection for municipal and industrial uses, instream flows for fish and wildlife, water quality, and recreation.

8. TMWA, Washoe County, Reno, Sparks, and Fernley are beneficiaries of that operation and management of Truckee River Reservoirs.

9. The Administrator has submitted proposed tentative budgets for each of the fiscal years beginning October 1, 2019 to September 30, 2020, and October 1, 2020 to September 30, 2021 (the “Tentative Budgets”).

10. The Tentative Budgets are not binding, have not been approved, and could change.

11. The Administrator has not submitted a tentative budget for the fiscal year October 1, 2021 to September 30, 2022.

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:

ARTICLE I

Recitals Part of Agreement

The foregoing Recitals are incorporated herein by this reference, and shall form a part of this Agreement as if recited herein at length.

ARTICLE II

Definitions

For purposes of this Agreement, words which appear with the first letter capitalized and which are not otherwise defined herein shall have the meanings given them as set forth in the Operating Agreement. When not capitalized or otherwise defined herein, words shall have their ordinary meaning.

ARTICLE III

Apportionment of Nevada Share of Operating Agreement Administration Expenses

For the fiscal years beginning October 1, 2019, October 1, 2020 and October 1, 2021, Nevada's share of the administration expenses of the Operating Agreement as finally approved in accordance with the Operating Agreement 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. Attached hereto as Exhibit A is a table showing what each party will be obligated to pay based upon a projected budget of \$1,500,000.00.

ARTICLE IV

Apportionment of Nevada Share for Fiscal Years After October 1, 2021

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, 2021. Those representatives will complete that consideration on or before June 30, 2022. If an agreement

is reached on such apportionment by June 30, 2022, 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, 2022, the apportionment shall be resolved as provided in Article V.

ARTICLE V

Resolution of Apportionment of Nevada Share After October 1, 2021

If TMWA, Washoe County, Reno, Sparks, and Fernley are unable to agree on apportionment of the Nevada Share among them by June 30, 2022, 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, 2022 and the final decision of the arbitrator to conform to that decision.

ARTICLE VI

Modification of Administrator Budget

On receipt of the Administrator's annual budget pursuant to Section 2.C.3 of the Operating Agreement, representatives of the Parties will meet and confer with respect to whether Nevada should approve it or request that it be modified. Nevada shall exercise its authority to approve or seek modification of the annual budget in a manner consistent with a vote of at least three of TMWA, Washoe County, Reno, Sparks and Fernley, acting through their respective representatives. If at least three of TMWA, Washoe County, Reno, Sparks and Fernley, acting through their respective representatives, cannot agree on approval or modification of the annual budget, then Nevada may approve or seek modification as it deems best in its reasonable judgment. TMWA, Washoe County, Reno, Sparks or Fernley each retain any and all rights they currently have to independently provide comment on the budget to Nevada, California and the United States, and to contest the budget in the Orr Ditch Court, whether the budget is or is not approved or modified by the vote required by this Article VI, and nothing contained in this Agreement shall be construed as a waiver by any party hereto of any rights held by that party under the Operating Agreement or any statute, rule, regulation provision, or doctrine of state or federal law.

ARTICLE VII

Miscellaneous

Section 7.1 Agreement Executed Without Coercion. The parties hereto acknowledge that each is making this Agreement of its own free will and volition, and acknowledge that no coercion, force, pressure or undue influence has been used against any party in the making of this Agreement either by the other party to this Agreement or by any other person or persons.

Section 7.2 Notices. All notices required or permitted to be given by law or by the terms of this Agreement shall be in writing and shall be considered given upon personal service of a copy on the party to be served, or by mailing such notice by certified mail, return receipt requested, postage prepaid, addressed to the parties as follows:

- a. Notices to State of Nevada shall be sent to:

Division of Water Resources
Attn: State Engineer
901 S. Stewart Street, Suite 1003
Carson City, Nevada 89701

- b. Notices to Truckee Meadows Water Authority shall be sent to:

Truckee Meadows Water Authority
Attn: General Manager
1355 Capital Boulevard, Reno, Nevada 89502
P.O. Box 30013
Reno, Nevada 89520-3013

- c. Notices to Washoe County shall be sent to:

Washoe County
Attn: David Solaro, ARCH., P.E., Asst. County Manager
Director of Community Services Department
1001 E. 9th Street, Reno, Nevada 89512

- d. Notices to City of Reno shall be sent to:

City of Reno
Attn: Director of Public Works
1 E. First Street, Reno, Nevada 89501
P.O. Box 1900, Reno, Nevada 89505

- e. Notices to City of Sparks shall be sent to:

City of Sparks
Attn: Public Works Director
431 Prater Way
Sparks, Nevada 89431-0857

f. Notices to City of Fernley shall be sent to:

City of Fernley
Attn: City Manager
595 Silver Lace Boulevard
Fernley, Nevada 89408

The parties may change the address to which notices are sent by a notice in writing to the other Parties.

Section 7.3 Consent. Whenever the approval or consent of any party is required for any purpose under this Agreement, that approval or consent will not be unreasonably withheld or delayed.

Section 7.4 Waiver. Neither a course of conduct, nor any waiver by either party with respect to a default or breach of any provision of this Agreement by the other party, shall operate or be construed as a waiver of any subsequent default or breach, or as a modification of this Agreement.

Section 7.5 Captions. The captions of this Agreement do not in any way limit or amplify its terms and provisions.

Section 7.6 Binding on Successors. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and to their respective successors and assigns for all time.

Section 7.7 Authorship. This Agreement has been reviewed by attorneys representing the respective parties. For the purposes of interpretation of this Agreement, no party shall be deemed to have been the drafter of this Agreement.

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Section 7.8 Good Faith and Fair Dealing. The Parties shall implement the provisions of this Agreement in good faith and shall observe all standards of fair dealing with respect thereto.

IN WITNESS WHEREOF, the Parties hereto have executed and delivered this 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: _____
Mayor

By: _____
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

EXHIBIT A

to Joint Funding Agreement

Party Shares Based Upon a Projected \$1,500,000.00 Budget:

<u>Party</u>	<u>Percent of Total</u>	<u>2019-2020</u>	<u>2020-2021</u>
TMWA	60%	\$ 360,000	\$360,000
Washoe County	10%	60,000	60,000
Reno	10%	60,000	60,000
Sparks	10%	60,000	60,000
Fernley	10%	60,000	60,000
Total:	100%	\$600,000	\$600,000