

A Project Funding Agreement Between the State of Nevada
Acting By and Through Its Division of State Lands and the
Fund to Protect Lake Tahoe (Grantor)

901 S. Stewart Street, Suite 5003
Carson City, NV 89701
phone: (775) 684-2720
Fax: (775) 684-2721

And

Washoe County – Community Services Department
(Grantee)

1001 East 9th Street
PO Box 11130
Reno NV 89520
phone: (775) 328-2040
Fax: (775) 328-3699

WHEREAS, the Nevada legislature in 2009 authorized the issuance of general obligation bonds in the face amount of \$100,000,000 between July 1, 2009 and June 30, 2020 to carry out a portion of the State's share of the Environmental Improvement Program; and

WHEREAS, the Nevada legislature in 2017 extended the deadline for the issuance of the remainder of the general obligation bonds to June 30, 2030; and

WHEREAS, the Nevada legislature authorized the State Land Registrar to establish a program for the protection of the Lake Tahoe Basin including without limitation: air and water quality; restoration and protection of natural watercourses, wetlands, fisheries, vegetation and forests, prevention and control of erosion and the enhancement of recreational and tourism opportunities in the basin; and

WHEREAS, NRS 321.5956(3) authorizes the State Land Registrar to enter into a funding agreement or other agreement, within the limits of available money, with non-profit organizations, and other persons or entities to carry out a program to preserve, restore and enhance the natural environment of the Lake Tahoe Basin; and WHEREAS, programs to enhance, preserve and restore the natural environment of the Lake Tahoe basin may be conducted on public property and privately owned property with the consent of the owner of the property as long as public money is only expended for a public purpose and the public interest is adequately protected; and

WHEREAS, the State Land Registrar has determined this project is both necessary and in the best interests of the natural environment at Lake Tahoe.

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

1. REQUIRED APPROVAL. This Funding Agreement shall not become effective until and unless approved by the State Land Registrar and the authorized Washoe County Community Services Department representative.
2. DEFINITIONS. "Grantor" means the Nevada Division of State Lands, its officers and employees. "Grantee" means the Washoe County Community Services Department.
3. FUNDING AGREEMENT TERM. This Funding Agreement shall be effective from September 20, 2024 to December 31, 2026, unless sooner terminated by either party as specified in paragraph 9 herein.
4. NOTICE. All notices or other communications required or permitted to be given under this Funding Agreement 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 above.

5. INCORPORATED DOCUMENTS. The parties agree that the responsibilities and duties of each party as well as the scope of the project shall be specifically described; this Funding Agreement incorporates the following attachments in descending order of constructive precedence;

ATTACHMENT A: Washoe County – Upper Third and Rosewood Creeks Water Quality Improvement Project (FTPLT 24-001) Summary & Special Conditions

ATTACHMENT B: Tahoe Bond Act Regulations – LCB File No. R040-12-02, NAC 321.300-365.

ATTACHMENT C: Water Quality and Erosion Control Grant Application prepared by Washoe County Community Services Department, Engineering and Capital Projects Division submitted July 5, 2024; and revised budget submitted November 6, 2024.

6. COST: Grantor agrees to provide a maximum of \$742,458.09 of the funds actually expended and necessary for the design of the described project contingent upon Grantee's compliance with all of the terms and conditions herein. See attachment A for description. This agreement may be amended to fund construction of the Upper Third and Rosewood Creeks WQIP designed improvements as general obligation bonds and Grantee matching funds become available and upon approval of the parties.

7. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Funding Agreement are also specifically a part of this Funding Agreement and are limited only by their respective order of precedence and any limitations specified.

8. INSPECTION & AUDIT.

a. Books and Records. Grantee agrees to keep and maintain under general accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to Grantor, or its authorized representatives, upon audits or reviews, sufficient information to determine compliance with all state and federal regulations and statutes.

b. Inspection & Audit. Grantee agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices, financial statements and supporting documentation shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of Grantee where such records may be found by Grantor's designated representative.

c. Period of Retention. All books, records, reports, and statements relevant to this Funding Agreement must be retained a minimum of three years. The retention period runs from the date of Grantor's last grant payment, or from the date of termination of the Funding Agreement, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

9. FUNDING AGREEMENT TERMINATION.

a. This Funding Agreement is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature. The Grantor may terminate this Funding Agreement, and Grantee waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the funding from Grantor is not appropriated or is withdrawn, limited, or impaired.

b. Grantor may only terminate this project agreement as specified in paragraph 17 of the incorporated attachment A, the project funding agreement. If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Grantee to provide the goods or services required by this Funding Agreement is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or if Grantee becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or if it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Grantee, or any agent or representative of Grantee, to any officer or employee of the State of Nevada with a view toward securing a funding agreement or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such funding agreement, then this funding agreement may be immediately terminated by the Grantor.

i. Time to Correct. Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph (4), and the subsequent failure of the defaulting party within 30 calendar days of receipt of that notice to provide

evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

ii. Winding Up Affairs Upon Termination. In the event of termination of this Funding Agreement for any reason, the parties agree that the provisions of this paragraph survive termination:

- aa. The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Funding Agreement. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
- ba. Grantee shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Grantor;
- ca. Grantee shall execute any documents and take any actions necessary to effectuate an assignment of this Funding Agreement if so requested by the Grantor;

10. LIMITED LIABILITY. The State will not waive and intends to assert available NRS chapter 41 liability limitations in all cases.

11. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Funding Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Funding Agreement after the intervening cause ceases.

12. INDEMNIFICATION. To the fullest extent permitted by law, Grantee shall indemnify, hold harmless and defend, not excluding the State's right to participate, the State from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of Grantee, its officers, employees and agents for this funding agreement.

13. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Funding Agreement or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

14. SEVERABILITY. If any provision contained in this Funding Agreement is held to be unenforceable by a court of law or equity, this Funding Agreement 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 Funding Agreement unenforceable.

15. ASSIGNMENT. Grantee shall neither assign, transfer nor delegate any rights, obligations or duties under this Funding Agreement without the prior written consent of the State.

16. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents received from Grantee may be open to public inspection and copying. The State will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.

17. FEDERAL FUNDING. In the event federal funds are used for payment of all or part of this Funding Agreement:

- a. Grantee certifies, by signing this Funding Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.
- b. Grantee shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.
- c. Grantee shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and

shall not discriminate against any employee or offer for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

18. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Funding Agreement on behalf of each party has full power and authority to enter into this Funding Agreement. Grantee acknowledges that as required by statute or regulation this Funding Agreement is effective only after approval by the Division of State Lands Administrator and only for the period of time specified in the Funding Agreement. Any services performed by Grantee before this Funding Agreement is effective or after it ceases to be effective are performed at the sole risk of Grantee.

19. GOVERNING LAW; JURISDICTION. This Funding Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. Grantee consents to the jurisdiction of the Nevada district courts for enforcement of this Funding Agreement.

20. ENTIRE FUNDING AGREEMENT AND MODIFICATION. This Funding Agreement and its integrated attachment(s) 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 Funding Agreement specifically displays a mutual intent to amend a particular part of this Funding Agreement, general conflicts in language between any such attachment and this Funding Agreement shall be construed consistent with the terms of this Funding Agreement. Unless otherwise expressly authorized by the terms of this Funding Agreement, no modification or amendment to this Funding Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

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

Charles Donohue - Grantor Signature
Division of State Lands - Administrator

Date

Grantee Signature
Washoe County Commission

Date