

MEMORANDUM OF UNDERSTANDING (PHASE 3)

**Between
Apple Inc.
and
Truckee Meadows Fire Protection District
And
Washoe County, Nevada**

This MEMORANDUM OF UNDERSTANDING (PHASE 3) is made and entered into by and among Apple Inc. (“Apple”), the Truckee Meadows Fire Protection District (“TMFPD”), and Washoe County, Nevada (“Washoe County”). Collectively, all entities will be hereinafter referred to as “Parties” and individually as a “Party.”

WHEREAS, Apple and Washoe County entered into a Development Agreement (Phase 1) in which Apple agreed to build and dedicate a fire station, more specifically described in the Development Agreement (the “Project”) on property located in the Reno Technology Park (the “Project Site”).

WHEREAS, TMFPD determined its desire to expand the project's scope beyond the scope originally specified in the Development Agreement. The expanded scope includes three additional bedrooms and one (1) additional apparatus bay.

WHEREAS, the Parties have determined that the process of designing and building the Project needs to be further developed and defined.

WHEREAS, the Parties desire to enter into this MEMORANDUM OF UNDERSTANDING (PHASE 3) to capture each Party’s duties and responsibilities regarding the Construction Phase 3 (as defined below) of the Project.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

A. PURPOSE

This MEMORANDUM OF UNDERSTANDING (PHASE 3) defines the agreement between the Parties for funding the construction, construction management, commissioning, and special inspections.

A.1 GUARANTEED MAXIMUM PRICE (GMP)

The guaranteed maximum price for the project is attached hereto as Exhibit A. The GMP represents the construction cost expressed in the approved construction documents submitted for a building permit, including the expanded scope and other development costs identified in A.2, A.3, A.4. and A.5.

A.2 COMMISSIONING

Apple requests third-party commissioning to ensure that all building systems (including, but not necessarily limited to, HVAC, electrical, plumbing, and safety systems) are installed, tested, and operating according to the project's design and specifications.

TMFPD shall provide Apple with a proposal(s) for commissioning, and upon Apple's approval, Apple shall pay the cost of commissioning. The commissioning shall include the following:

1. **Installation Verification:** Checking that all systems have been installed correctly and according to the specifications.
2. **Testing and Adjustments:** Verifying that all equipment and systems operate properly, including running functional tests and performance checks.
3. **Training:** Educating the building's operators or maintenance staff on effectively managing and maintaining the systems.
4. **Documentation:** Provide the owner with manuals, warranties, and a list of service contacts.
5. **Final Acceptance:** Ensuring that any issues found during testing are resolved before the building is officially accepted.

The proposal for Commissioning is attached hereto as Exhibit B.

A.3 SPECIAL INSPECTIONS

Special Inspections shall be provided per the proposal, attached as Exhibit C, as required by local and state regulations.

A.4 ELECTRICAL UTILITY EXTENSION

The line extension agreement for electrical service for the project and the associated costs and plans are attached in Exhibit D.

A.5 CONSTRUCTION MANAGEMENT

Upon issuance of the building permit and notice to proceed from Apple, construction management and administration of the contract drawings shall be as represented in Exhibit E.

A.6 FUNDING

The parties agree that Apple shall pre-fund the construction costs. TMFPD will bill Apple in advance in 25% increments of the GMP due within 30 days of billing, including costs for A.2, A.3, A.4, and A.5. The first 25% will be billed upon executing this contract and due within 30 days. Future increments will be billed in advance to provide TMFPD with sufficient cash flows to cover payments as payments come due.

The final prefunded amount shall reflect a credit for TMFPD's apportioned share, as agreed upon by the parties and attached hereto.

B. MODIFICATION AND AMENDMENT

Modifications to This MEMORANDUM OF UNDERSTANDING (PHASE 3) shall be made with the mutual consent of the Parties, memorialized by a fully executed written amendment.

C. STANDARD DISCLAIMER STATEMENT

This MEMORANDUM OF UNDERSTANDING (PHASE 3) is not intended to affect the legal liability of any Party hereto by imposing any standard of care other than the standard of care imposed by applicable law. Employees, agents, and contractors of each Party shall not be deemed to be employees, agents, or contractors of any other Party. It is understood and agreed that no Party to this Phase 3 Memorandum of Understanding nor its officers or employees shall be jointly or severally liable for any damage or liability attributable to any other Party to this Phase 3 Memorandum of Understanding.

D. EXPIRATION

This Phase 3 Memorandum of Understanding shall become effective upon the signature of all Parties and expire one (1) year from the date Apple funds a total amount to TMFPD equal to the Project Construction Document Sum.

E. TERMINATION

This MEMORANDUM OF UNDERSTANDING (PHASE 3) may be terminated by the written consent of all Parties before expiration. All terms and provisions of This MEMORANDUM OF UNDERSTANDING (PHASE 3) are intended to survive any termination or expiration of this MEMORANDUM OF UNDERSTANDING (PHASE 3) shall so survive.

F. EFFECTIVE DATE

This Phase 3 Memorandum of Understanding and any exhibits hereto shall become effective upon signature of all Parties.

G. CONTACTS

The primary points of contact for carrying out the provisions of the Phase 3 Memorandum of Understanding are:

Name: John Rickard
Title: Director RE&D Project Management
Organization: Apple Inc.
Address: 1 Apple Park Way, MS:
City/State/Zip Code: Cupertino, CA 95014
Telephone:
Cellular Telephone:
Email Address:

Name: Jay Cwiak
Title: Division Chief
Organization: Truckee Meadows Fire Protection District
Address: 3663 Barron Way
City/State/Zip Code: Reno, NV 89511
Telephone: 775-326-6000
Cellular Telephone: 775-313-8903
Email Address: jcwiak@tmfpd.us

Name: Dave Solaro
Title: Assistant County Manager/CSD Director
Organization: Washoe County
Address: 1001 East 9 th Street
City/State/Zip Code: Reno, NV
Telephone: 775-328-3600
Cellular Telephone: 775-303-5010
Email Address: dsolaro@washoecounty.gov

H. SEVERABILITY

In case one or more of the terms, sentences, paragraphs, or provisions contained herein shall for any reason be held to be invalid, illegal, or non-enforceable in any respect, such invalidity, illegality, or non-enforceability shall not affect any other terms, sentences, paragraphs or provisions and this Phase 3 Memorandum of Understanding shall be construed as if such invalid, illegal, or non-enforceable provision had never been contained herein.

I. GOVERNING LAW, VENUE

This Phase 3 Memorandum of Understanding shall be governed, interpreted, and construed by the laws of the State of Nevada, and the venue for any action based upon its terms and the Parties' performance hereunder shall be in the Second Judicial District Court of Washoe County

J. LIMITATION OF LIABILITY

Washoe County and TMFPD do not waive and intend to assert all available limitations of liability as outlined in Nevada Revised Statutes chapter 41.

K. CONFLICTS

This Phase 3 Memorandum of Understanding shall be controlled in case of a conflict or inconsistencies between it and the Development Agreement.

IN WITNESS WHEREOF, the Parties have set their hands with the intent to be bound.

APPLE, INC.

Director RE&D Project Management

Date

TRUCKEE MEADOWS FIRE PROTECTION DISTRICT

Chair, Board of Fire Commissioners

Date

WASHOE COUNTY

Assistant County Manager/CSD Director

Date