



WASHOE COUNTY

Integrity Communication Service
www.washoecounty.gov

STAFF REPORT

BOARD MEETING DATE: October 12, 2021

DATE: September 12, 2021

TO: Board of County Commissioners

FROM: Dwayne Smith, P.E., Division Director, Engineering and Capital Project
Community Services Department, 328-2043, desmith@washoecounty.gov

THROUGH: Dave Solaro, Arch., P.E., Assistant County Manager
Community Services Department, 328-3600, dsolaro@washoecounty.gov

SUBJECT: Recommendation to: (1) accept the Nevada Department of Public Safety, Division of Emergency Management and Homeland Security "Lemmon Valley Home Acquisitions Phase I" grant award [in the amount of \$1,034,981.25 with a Washoe County cash/in-kind match in the amount of \$344,993.75] for the purpose of purchasing certain residential properties located in the Lemmon Valley area of Washoe County, removing all existing structures, buildings, materials and debris, thereby returning these parcels to vacant open space that are further deed restricted to prevent any future development; (2) approve the Subrecipient Grant Award agreement with a grant period retroactive from August 7, 2020 through August 6, 2023, and authorize the Chair to execute the same; (3) direct the Comptroller's Office to make the necessary budget amendments; and (4) designate the County Manager as the authorized representative with the authority to enter into and execute all necessary construction and purchase agreements for the properties, identified as APN 086-303-22 in a purchase amount not to exceed [\$227,000.00], APN 086-305-01 in a purchase amount not to exceed [\$132,500.00], APN 080-301-08 in a purchase amount not to exceed [\$354,000.00], APN 086-523-07 in a purchase amount not to exceed [\$228,000.00], and APN 086-523-01 in a purchase amount not to exceed [\$145,000.00]. (All Commission Districts.)

SUMMARY

In support of the Lemmon Valley Home Acquisitions Phase I project (Project), this item recommends acceptance of a Federal Emergency Management Agency (FEMA) hazard mitigation grant, administered through the Nevada Department of Public Safety, Division of Emergency Management and Homeland Security, in the amount of \$1,034,981.25, with Washoe County as the Subrecipient and providing the required match in the amount of \$344,993.75, with a grant period retroactive from August 7, 2020 through August 6, 2023; and to direct the Comptroller to make the necessary budget amendments. The funding will be used for the purchase and subsequent demolition and clearing of these subject residential parcels that were impacted during the 2017 presidentially declared flood disaster FEMA-4303-DR-NV. Through this Project, Washoe County will purchase the subject properties and subsequently remove all existing structures, buildings,

AGENDA ITEM # _____

materials, and debris returning these parcels to undeveloped open space. Further, the County will deed restrict the parcels as permanent open-space thereby preventing any future development of these parcels. This action will eliminate any future mitigation costs associated with potential future flooding on these parcels and eliminate the possible risks to first responders who would be called upon to assist these residents. This item also recommends approval of the Subrecipient Grant Award agreement attached hereto as Attachment A, including the requirement that the County comply with State Article I. State Article I requires Washoe County to obtain written authorization from the Board of County Commissioners (Board) that the County agrees:

- a) To designate an authorized representative with the authority to bind the Board,
- b) To provide all matching funds required for the Project,
- c) That any liability arising out of the performance of the Project will be the responsibility of the County, and
- d) That grant funds shall not be used to supplant expenditures controlled by the County.

Staff has confirmed that such written authorization will be satisfied by the Chair's signature on the Subrecipient Grant Award.

In addition, this item recommends that the Board authorize the County Manager to execute the required purchase and construction agreements to acquire the identified properties located around the Swan Lake closed basin, located in the Lemmon Valley area of Washoe County and to demolish and clear the properties of houses, buildings, debris and materials, effectively creating open land that will not be developed in the future or require potential emergency mitigation or response. These five properties consist of APNs 086-303-22, 086-305-01, 080-301-08, 086-523-07 and 086-523-01 and are shown on the map included as Attachment B to this staff report. This delegation of authority allows the County Manager to execute the necessary documents to purchase these properties using the "Lemon Valley Home Acquisitions Phase I" grant award and required County match. Following the Program guidelines using a certified appraiser, the purchase amounts are as follows:

- APN 086-303-22, 435 Pompe Way, for an amount not to exceed [\$227,000.00]
- APN 086-305-01, 440 Pompe Way, for an amount not to exceed [\$132,500.00]
- APN 080-301-08, 11725 Lemmon Drive, for an amount not to exceed [\$354,000.00]
- APN 086-523-01, 300 Pompe Way, for an amount not to exceed [\$145,000.00]
- APN 086-523-07, 140 Shane Way, for an amount not to exceed [\$228,000.00]

All five of these properties will be deed restricted as perpetual and permanent open space. This will eliminate any future mitigation costs in the event these parcels flood in the future.

County Priority/Goal supported by this item: Safe, Secure and Healthy Communities

PREVIOUS ACTION

July 14, 2020 – The Board of County Commissioners (Board) heard a presentation regarding the status of the Lemmon Valley Closed Hydrobasins short and long term mitigation strategies and provided policy direction to initiate the revision of the current FEMA designated flood plain boundary and pool elevation for the East and West Lemmon Valley Closed Hydrobasins and to increase volumetric mitigation of new development located within a 100-year FEMA designated floodplains to 1.3:1 (removal:placement).

September 24, 2019 – The Board approved a resolution to augment the Capital Improvement Fund in the amount of \$2,500,000 for projects related to current and future mitigation of flood/storm water impacts in the North Valleys, as directed by the Board on August 27, 2019.

April 23, 2019 – The Board retroactively authorized the emergency purchase of the temporary flood mitigation system from US Flood Control Corp [in the amount of \$210,909], to protect residential homes most vulnerable to immediate water elevation increases of Swan Lake in the areas of Pompe Way and Shane Way in Lemmon Valley. The purchase was conducted pursuant to NRS 332.112 and 338.011.

April 9, 2019 – The Board provided a recommendation to discuss and provide policy direction to staff related to the closed East Lemmon Valley Hydrographic Basin to include next steps to address lasting elevated lake levels.

April 9, 2019 – The Board authorized Assistant County Manager, Dave Solaro, to enter into all necessary emergency agreements and construction contracts for the continued development and implementation of the 2019 mitigation and response measures associated with the Lemmon Valley Wastewater Treatment Plant for access road and berm improvements [not to exceed \$500,000], and for seepage, bypass, and backup pumping systems associated with the treatment plant and collection system [not to exceed \$150,000], pursuant to NRS 332.112 and 338.011.

December 12, 2017 – The Board acknowledged receipt of an update on the 2017 North Valleys Flood Incident; directed staff to submit Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant applications for the proposed purchase of specific residences located within the Swan Lake FEMA designated floodplain that were impacted by the 2017 presidentially declared February 2017 flood; and approved the transfer of up to \$300,000 as needed from contingency funds to the Capital Improvement Fund for the construction of additional temporary flood barriers in the Swan Lake area.

September 12, 2017 – The Board affirmed the continued flood response activities related to the 2017 January and February floods and directed staff to initiate the development of a flood response plan for North Valleys closed hydro-basins, a flood mitigation plan for North Valleys closed hydro-basins and to pursue the application process for a FEMA Hazard Mitigation Grant, for the possible purchase of specific residences located within the Swan Lake floodplain that were impacted by the 2017 presidentially declared February flood.

June 27, 2017 – The Board approved the use of General Fund Contingency funding and approved budget appropriation transfers to cover the County's expenses related to the January and February 2017 flood events.

May 23, 2017 – The Board approved gifting general funds to cover the cost of County building permit fees for specific assessor's parcel numbers affected by Swan Lake (and the immediate vicinity) flooding when demonstrated that individual insurance carriers would not cover the cost of County building permit fees.

May 9, 2017 – The Board received an update on the North Valleys flood incident operation.

April 25, 2017 – The Board directed staff to return with a District Attorney opinion regarding the possible methods for gifting general fund money for building permits related to the Lemmon Valley Flood.

March 28, 2017 – Washoe County staff provided an update to the Board on emergency operations related to the February 23, 2017 Declaration of State of Emergency and received approval of actions taken by the County Manager pursuant to emergency powers related to the state of emergency.

March 21, 2017 – Washoe County staff provided an update to the Board on emergency operations related to the February 23, 2017 Declaration of State of Emergency and received approval of actions taken by the County Manager pursuant to emergency powers related to the state of emergency.

March 14, 2017 – The Board ratified a Declaration of a State of Emergency by the Washoe County Manager on February 23, 2017, and received an update on the related emergency operations for the North Valleys flood response.

BACKGROUND

Beginning in September 2016 and continuing through February 2017, record-setting precipitation events led to significant water runoff into the Swan Lake closed basin. These precipitation events caused persistent flooding of certain areas around Swan Lake and impacted both public infrastructure and private properties. In response, the State of Nevada, Washoe County, and various emergency responders initiated activities to contain Swan Lake and to remove flood waters from certain public and residential areas. While these activities were successful in eliminating standing flood water from most residential parcels bordering Swan Lake, there were certain exceptions. In several areas, flood impacts caused several residential properties to become temporarily uninhabitable due to either the presence of flood water within the occupied space of these dwellings, intermittent loss of on-site septic systems, or sustained standing water on the properties which prevented safe access to the properties.

FEMA's Hazard Mitigation Grant Program provides funding to state, local, tribal, and territorial governments so they can rebuild in a way that reduces or mitigates future disaster losses in their communities. This grant funding is available after a presidentially declared disaster. In this program, property owners cannot apply directly for a grant. However, a local community may apply for funding on their behalf.

The President declared a major disaster for the State of Nevada on February 17, 2017, as a result of the severe winter storms, flooding and mudslides that occurred January 5, 2017 through January 14, 2017 pursuant to his authority under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. No. 93-288 (1974) (codified as amended

at 42 U.S.C. § 5121 *et seq.*) (“Stafford Act”). This declaration, numbered FEMA-4303-DR-NV, authorized the Public Assistance Grant Program for several cities, tribal lands and counties, including Washoe County, allowing for the Hazard Mitigation Grant Program to be accessed. The FEMA program may provide financial assistance to reduce the risk of life and property loss from future disasters during the recovery from a major disaster.

In December 2019, Washoe County submitted an initial application for financial assistance to the FEMA Hazard Mitigation Grant Program (HMGP) through the State of Nevada Department of Public Safety, Division of Emergency Management for the acquisition and demolition of five residential properties directly impacted by the declared disaster. Due to lawsuits and the restrictions FEMA places on the use of grant funding, the application was revised multiple times before being approved.

The HMGP program provides agencies, such as Washoe County, with an approach to remove homes, structures and other development from flood-prone areas thereby reducing the impact of future flood events on residents, first responders and the general community. This program, like all FEMA programs, has rules and requirements for implementation. Due to the amount of time that has passed for the advancement of this first phase, FEMA has allowed the use of certified property appraisals that were updated in March 2021. While FEMA’s HMGP program terms identify the purchase offer to be the value of the property the day before the disaster, at the request of staff, FEMA recognized the unique circumstances associated with the prolonged flood impacts singular to closed hydrobasins and also recognized the issues with lawsuits which included several of the initial program participants. Under the terms of the Program, the participants have the right to withdraw from this voluntary program at any time. At this time none of the participants has indicated that they considering withdrawing from the Program and Washoe County anticipates completing the purchase of the properties by the end of the calendar year.

While this program approach is not a singular solution to the flood issues associated with closed basins, the program is viewed as part of the long-term solution to flooding issues in this area, and it is believed that future purchases of certain residential properties in and around Swan Lake may help address future flooding issues. Therefore, County staff is committed to continuing to work with FEMA and the State of Nevada to identify and develop possible future phases of this program which would be brought to the Board for consideration and direction.

A combination of Washoe County staff time, contracts with independent contractors, and volunteer efforts is expected to be used to implement the Project over the next 12 months.

GRANT AWARD SUMMARY

Project/Program Name: Lemmon Valley Home Acquisitions Phase I

Scope of the Project: Acquisition and demolition of five residential properties and subsequent creation of permanent open space.

Benefit to Washoe County Residents: The acquisition and demolition of the proposed five residential properties and subsequent creation of permanent open space will eliminate any future mitigation costs associated with these five properties and will eliminate any possible risks to first responders who could be called upon to assist these residents.

On-Going Program Support: None

Award Amount: \$1,034,981.25

Grant Period: August 7, 2020-August 6, 2023

Funding Source: FEMA

Pass Through Entity: Nevada Division of Emergency Management

CFDA Number: 97.039

Grant ID Number: DR-4307-002-002R

Match Amount and Type: \$344,993.75 total match (cash match).

Sub-Awards and Contracts: Contracts will likely be awarded to implement portions of the project. All contracts and supply purchases will follow Washoe County procurement guidelines.

FISCAL IMPACT

Should the board accept this grant award and approve the Subrecipient Grant Award agreement, the FY22 budget will be increased by \$1,034,981.25 in both revenues and expenditures in the following accounts:

Cost Object	G/L Account	Amount
IN19109 – Lemmon Valley Home Acquisitions Phase I	431110-Federal Grants	\$1,034,981.25
IN19109 – Lemmon Valley Home Acquisitions Phase I	818000-Transfer to Intrafund	\$1,034,981.25
PW920510 – Lemmon Valley Home Acquisitions Phase I	781001-Land Improvements Capital	\$1,034,981.25
PW920510 – Lemmon Valley Home Acquisitions Phase I	818000-Transfer to Intrafund	-\$1,034,981.25

There is a \$344,993.75 cash match for this grant, which will come from funds allocated in the Capital Improvement Fund (402) in the North Valley's Mitigation Strategy project (PW920506).

The grant funds will be drawn on a reimbursement basis. No indirect cost is included in this grant.

RECOMMENDATION

It is recommended that the Board of County Commissioners: (1) accept the Nevada Department of Public Safety, Division of Emergency Management and Homeland Security “Lemmon Valley Home Acquisitions Phase I” grant award [in the amount of \$1,034,981.25 with a Washoe County cash/in-kind match in the amount of \$344,993.75] for the purpose of purchasing certain residential properties located in the Lemmon Valley area of Washoe County, removing all existing structures, buildings, materials and debris, thereby returning these parcels to vacant open space that are further deed restricted to prevent any future development; (2) approve the Subrecipient Grant Award agreement with a grant period retroactive from August 7, 2020 through August 6, 2023, and authorize the Chair to execute the same; (3) direct the Comptroller’s Office to make the necessary budget amendments; and (4) designate the County Manager as the authorized representative with the authority to enter into and execute all necessary construction and purchase agreements for the properties, identified as APN 086-303-22 in a purchase amount not to exceed [\$227,000.00], APN 086-305-01 in a purchase amount not to exceed [\$132,500.00], APN 080-301-08 in a purchase amount not to exceed [\$354,000.00], APN 086-523-07 in a purchase amount not to exceed [\$228,000.00], and APN 086-523-01 in a purchase amount not to exceed [\$145,000.00].

POSSIBLE MOTION

Should the Board agree with staff’s recommendation, a possible motion would be: “Move to: (1) accept the Nevada Department of Public Safety, Division of Emergency Management and Homeland Security “Lemmon Valley Home Acquisitions Phase I” grant award [in the amount of \$1,034,981.25 with a Washoe County cash/in-kind match in the amount of \$344,993.75] for the purpose of purchasing certain residential properties located in the Lemmon Valley area of Washoe County, removing all existing structures, buildings, materials and debris, thereby returning these parcels to vacant open space that are further deed restricted to prevent any future development; (2) approve the Subrecipient Grant Award agreement with a grant period retroactive from August 7, 2020 through August 6, 2023, and authorize the Chair to execute the same; (3) direct the Comptroller’s Office to make the necessary budget amendments; and (4) designate the County Manager as the authorized representative with the authority to enter into and execute all necessary construction and purchase agreements for the properties, identified as APN 086-303-22 in a purchase amount not to exceed [\$227,000.00], APN 086-305-01 in a purchase amount not to exceed [\$132,500.00], APN 080-301-08 in a purchase amount not to exceed [\$354,000.00], APN 086-523-07 in a purchase amount not to exceed [\$228,000.00], and APN 086-523-01 in a purchase amount not to exceed [\$145,000.00].”

Attachment A: Subrecipient Grant Award agreement

Attachment B: Location Map