

**BOARD OF COUNTY COMMISSIONERS
WASHOE COUNTY, NEVADA**

TUESDAY

8:30 A.M.

JANUARY 25, 2011

PRESENT:

John Breternitz, Chairman
Bonnie Weber, Vice Chairperson
Bob Larkin, Commissioner*
Kitty Jung, Commissioner
David Humke, Commissioner*

Amy Harvey, County Clerk
Katy Simon, County Manager
Melanie Foster, Legal Counsel

The Washoe County Board of Commissioners convened at 8:30 a.m. in closed session in the Commission Caucus Room, 1001 East Ninth Street, 2nd Floor, Room A205 Reno, Nevada. Following the Pledge of Allegiance to the flag of our Country, the Clerk called the roll and the Board conducted the following business:

AGENDA ITEM 3 – CLOSED SESSION

Agenda Subject: “Possible Closed Session for the purpose of discussing negotiations with Employee Organizations per NRS 288.220.”

The Board convened in closed session for the purpose of discussing negotiations with Employee Organizations per NRS 288.220.

Following Item #3 above, the Board of County Commissioners will recess and reconvene at 10:00 a.m. in the Washoe County Commission Chambers located at 1001 E. 9th Street, Reno, for the remainder of the County Commission Agenda.

10:10 a.m. The Board reconvened with Commissioners Larkin and Humke absent.

County Manager Katy Simon stated: "The Chairman and the Board of County Commissioners intend that their proceedings should demonstrate the highest levels of decorum, civic responsibility, efficiency and mutual respect between citizens and their government. The Board respects the right of citizens to present differing opinions and views, even criticism, but our democracy cannot function effectively in an environment of personal attacks, slander, threats of violence, and willful disruption. To that end, the Nevada Open Meeting Law provides the authority for the Chair of a public body to maintain the decorum and to declare a recess if needed to remove any person who is disrupting the meeting, and notice is hereby provided of the intent of this body to preserve the decorum and remove anyone who disrupts the proceedings."

Chairman Breternitz announced that Agenda Item 20 would be heard at a time certain of 5:30 p.m.

***10:13 a.m.** Commissioner Larkin arrived.

11-60 AGENDA ITEM 6 - RESOLUTION

Agenda Subject: “Resolution of Appreciation--honoring former Nevada State Senator William Raggio.”

Chairman Breternitz read and presented the Resolution of Appreciation to former Nevada State Senator William Raggio. Senator Raggio thanked the Board for this honor. He said the County Commission had always been a responsible body and it had always been a pleasure working them. Senator Raggio stated to earn the respect of the citizens you did what you thought was right and said what you thought without worrying about being reelected.

Richard Gammick, District Attorney, presented Senator Raggio with gifts from the Nevada District Attorney’s Association and the Washoe County District Attorney’s Association. He also presented Senator Raggio a plaque embossed with the American Flag because he said Senator Raggio was a true patriot of the country.

In response to the call for public comment, Sam Dehne spoke on the Resolution.

On motion by Commissioner Jung, seconded by Commissioner Weber, which motion duly carried with Commissioner Humke absent, it was ordered that Agenda Item 6 be adopted.

11-61 AGENDA ITEM 7 – EXCELLENCE IN PUBLIC SERVICE

Agenda Subject: “Presentation of Excellence in Public Service Certificates honoring Washoe County employees who have completed essential employee development courses.”

Katy Simon, County Manager, recognized the following employees for successful completion of the Excellence in Public Service Certificate Programs administered by the Human Resources Department:

Essentials of High Performing Teams

Lynette Anninos, Office Assistant III

Charles Wright, Deputy Recorder I

Roxanna Valverde, Office Support Specialist

Essentials of Personal Effectiveness

Brenden Donnan, Unity Clerk

Roxanna Valverde, Office Support Specialist

Essentials of Support Staff

Brenden Donnan, Unity Clerk

Roxanna Valverde, Office Support Specialist

11-62 AGENDA ITEM 8 – PUBLIC COMMENT

Agenda Subject: “Public Comment. Comment heard under this item will be limited to two minutes per person and may pertain to matters both on and off the Commission agenda. The Commission will also hear public comment during individual action items, with comment limited to two minutes per person. Comments are to be made to the Commission as a whole.”

Ardena Perry requested the Board postpone the first reading of the animal ordinance until more public input could be received.

Donna Peterson spoke about respect and the power of words. She stated words could be powerful, wonderful, persuasive, provocative, inspirational and motivational, but could also be demeaning, destructive, offensive and cruel. Ms. Peterson stated week after week there were stories of students being verbally bullied and politicians whose incensory rhetoric was alienating, divisive and, in some cases, dangerous. She said it was incumbent upon anyone that entered these chambers to demonstrate decorum and respect. However, on several occasions a Commissioner chose words that were degrading, humiliating, undignified and not worthy of their elected office. Ms. Peterson said it may not have been the intention to be demeaning, but that was how those words had been perceived. She requested the Chair require all Commissioners to think carefully about their choice of words and the emotional power those words may inflict.

Jennifer Mustain discussed the North Valleys Babe Ruth Baseball League. She indicated that the Golden Valley field was in disarray and in need of major renovations. Last year when citizens inquired for help from the County to assist in repairing the fields, it was related that the County did not have the funds available. She suggested that the original plans be furthered to build the two Babe Ruth baseball fields.

Betty Hicks said the County now had a population of 400,000+ and, according to NRS, once that number was reached the County was meant to have seven Commissioners. She said a Bill Draft Request (BDR) had been submitted to change that law and require a larger population. Ms. Hicks asked the Board to encourage the Legislature to not change the law and allow seven county commissioners.

Tonja Brown distributed documents that were placed on file with the Clerk. She stated her dissatisfaction toward the Washoe County Public Defender's Office.

Edward Hawkins spoke on Agenda Item 16. He said during a recent Neighborhood Advisory Board (NAB) meeting discussion ensued about the \$7.5 million that was made from the sale of water rights from the Sierra Sage Golf Course for the use of the North Valleys Sports Complex. He stated that the North Valleys was in need of two Babe Ruth baseball fields, a concession stand and an enclosed water park. He said the money was available and it would be good to omit the Washoe County debt on the Golf Course; however, there were certain issues that needed to be discussed.

Sam Dehne discussed the recent State-of-the-State speech delivered by Governor Brian Sandoval.

Dr. Richard Simmonds thanked the District Attorney's Office and staff for meeting with citizens to discuss the proposed changes to the animal ordinance.

District Attorney Richard Gammick asked that the Board leave Agenda Item 20 at the time certain. He said there had been four years of hearings concerning this issue and stated the public had a great deal of input. He indicated that the recent changes to the proposal would be brought to the Board. Mr. Gammick said those changes were a result from a meeting held on January 24, 2011. He said the changes were not critical to the ordinance, but changes requested by citizens.

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Later in the meeting, Chairman Breternitz re-opened public comment to hear comment from individuals who inadvertently requested to speak on the wrong agenda item.

Troy Blake, Silver State Cal Ripken President, said the Silver State Cal Ripken program serviced youth baseball from the ages of four to 12. Currently, they used the North Valleys Sports Complex baseball fields. Mr. Blake noted that Cal Ripken baseball was a division of the Babe Ruth program. He said there were currently 800 participants in the league, but the two Babe Ruth fields in use were not suitable for the participants. Due to those conditions, the retention of participants in the Babe Ruth division dropped dramatically.

Norman Mustain said the two Babe Ruth baseball fields were badly needed. He felt the program could double in members with the new fields.

Dennis Stoddard said the need was there to support the Babe Ruth fields. He understood that the Board may appropriate money from a bond set aside for the North Valleys Sports Complex. He emphasized diverting the funds were not in the best interest of the community.

Tim Riley, Cal Ripken of Nevada Commissioner, said the Silver State Cal Ripken program broke off from the Sun Valley Cal Ripken program to become community-based. He said part of the original goal was to have the Babe Ruth fields side-by-side at the Sports Complex. He requested the Board support the North Valleys community and the decision that the Advisory Boards made and consider building those fields. Mr. Riley stated Agenda Item 16 was the first step in the “horse-trading” that needed to be completed with the City of Reno in order to maintain the funds.

11-63 AGENDA ITEM 9 – ANNOUNCEMENTS

Agenda Subject: “Commissioners’/Manager’s Announcements, Requests for Information, Topics for Future Agendas and Statements Relating to Items Not on the Agenda. (No discussion among Commissioners will take place on this item.)”

Commissioner Weber noted a citizen who had spoken under public comment yelled out to a staff member when leaving the Chambers.

Chairman Breternitz reiterated that Agenda Item 20 would be heard at a time certain of 5:30 p.m.

Commissioner Larkin requested a presentation by Lieutenant Colonel Tom Pagnano of the Civil Air Patrol be scheduled for the February 22, 2011 meeting.

***10:52 a.m.** Commissioner Humke arrived.

Commissioner Weber said several individuals had spoken on the North Valleys Sports Complex. She clarified that Agenda Item 16 dealt with effluent use at the Sierra Sage Golf Course and felt at this time baseball fields would not be appropriate for discussion. She requested an item to discuss the North Valleys Sports Complex be placed on a future agenda. In response to Commissioner Weber, Mr. Hawkins stated he was concerned that the topic was about the effluent use and the payment thereof. He asked if that payment would use money set aside for the North Valleys Sports Complex. Commissioner Weber stated the item would cover the effluent use at the Sierra Sage Golf Course and the agreement.

Melanie Foster, Legal Counsel, stated since it was closely related, citizens could speak on that item. She said the item was specifically written as to the actions the Board would take and not written for the Board to take any other action to set aside a portion of the funds for any other use or to make any disposition of the remaining funds.

11-64 AGENDA ITEM 10 - APPEARANCE

Agenda Subject: “Kathy Carter, Washoe County Community Relations Director and Dr. Sara Hart, Director of Research, InfoSearch International. Presentation regarding 2010 Citizen Survey; acceptance of survey; and, possible direction to staff. (All Commission Districts.)”

Kathy Carter, Community Relations Director, and Dr. Sara Hart, Director of Research, InfoSearch International, conducted a PowerPoint presentation of the Washoe County Citizen Survey from December 2010, which was placed on file with the Clerk. The presentation highlighted the important issues facing Washoe County in 2010, overall rating of Washoe County Government, 2010 budget priorities for Washoe County, significant changes in budget priorities, 2010 satisfaction with County services, significant changes in satisfaction, 2010 ratings of service for unincorporated Washoe County, 2010 perceived change in Washoe County service levels with budget cuts, 2010 citizen contact, communications and key survey points.

Commissioner Humke said Juvenile Services and Social Services were relatively used by fewer citizens versus Regional Parks and Libraries. He asked if that made a difference in survey research. Dr. Hart replied about 90 percent of respondents rated Regional Parks and Libraries and provided their impressions of those services. She said about 80 percent of the respondents provided ratings for Juvenile Detention and operating the court systems. Dr. Hart said the survey did not measure direct experience, but citizen’s perception of County services.

There was no public comment on this item.

11:26 a.m. Commissioner Weber temporarily left the meeting.

On motion by Commissioner Jung, seconded by Commissioner Larkin, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 10 be accepted.

CONSENT AGENDA

11-65 AGENDA ITEM 11A

Agenda Subject: “Approve minutes for the Board of County Commissioners’ meeting of January 3, 2011.”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11A approved.

11-66 AGENDA ITEM 11B

Agenda Subject: “Cancel February 15, 2011 County Commission Meeting.”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11B be approved.

11-67 AGENDA ITEM 11C - ASSESSOR

Agenda Subject: “Approve roll change requests, pursuant to NRS 361.768 and NRS 361.765, for errors discovered for the 2008/2009, 2009/2010, 2010/2011 secured and unsecured tax rolls; and if approved, authorize Chairman to execute Order and direct Washoe County Treasurer to correct the errors [cumulative amount of decrease \$41,214.10]. (Parcels in various Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11C be approved, authorized, executed and directed.

11-68 AGENDA ITEM 11D – DISTRICT ATTORNEY

Agenda Subject: “Approve payments [\$3,954.34] to vendors for assistance of 14 victims of sexual assault; and if approved, authorize Comptroller to process same. NRS 217.310 requires payment by the County of total initial medical care of victims, regardless of cost, and of follow-up treatment costs of up to \$1,000 for victims, victim’s spouses and other eligible persons . (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11D be approved and authorized.

11-69 AGENDA ITEM 11E – FINANCE/COMPTRROLLER

Agenda Subject: “Acknowledge receipt of the Interim Financial Report for Washoe County Governmental Funds for the six months ended December 31, 2010 - Unaudited.” (All Commission Districts.)

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11E be acknowledged.

11-70 AGENDA ITEM 11F – SHERIFF

Agenda Subject: “Accept award [\$46,300] from the United States Marshals Service for payment of overtime, air card and fuel expenses for participation in the Nevada Fugitive Investigative Strike Team Task Force; and if accepted, direct Finance to make necessary budget adjustments.”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11F be acknowledged.

11-71 AGENDA ITEM 11G – TRUCKEE RIVER FLOOD MANAGEMENT PROJECT

Agenda Subject: “Acknowledge receipt of Truckee River Flood Management Project Status Report for December 2010. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11G be acknowledged.

11-72 AGENDA ITEM 11H(1) - MANAGER

Agenda Subject: “Approve and authorize refund (\$30,768.19) to IMG Energy of the unused portion of the filing fee paid to Washoe County for the processing of the application for a portion of the County’s Volume Cap for Recovery Zone Facility Bonds.”

Katy Simon, County Manager, explained this was a non-refundable deposit as so noted in the staff report.

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11H(1) be approved and authorized.

**11-73 AGENDA ITEM 11H(2) – COMMUNITY SUPPORT
ADMINISTRATOR/ MANAGEMENT SERVICES**

Agenda Subject: “Acknowledge receipt of an update report on the status of the Washoe County American Recovery and Reinvestment Act 2009 (Stimulus) projects for October through December 2010. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11H(2) be acknowledged.

11-74 AGENDA ITEM 11H(3) – MANAGEMENT SERVICES

Agenda Subject: “Appoint Marlene Olsen, Fred Sibayan and Ty Winfeldt as at-large representatives to the Organizational Effectiveness Committee, with terms to begin February 1, 2011 and expire December 31, 2013. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Marlene Olsen, Fred Sibayan and Ty Winfeldt be appointed as At-Large representatives to the Organizational Effectiveness Committee, with terms beginning February 1, 2011 and ending December 31, 2013.

11-75 AGENDA ITEM 11H(4) – COMMUNITY RELATIONS

Agenda Subject: “Accept \$4,176 from Atlantis Casino Resort Spa in sponsorship funds for the National Association of Counties 2010 Conference; and if accepted, direct Finance to deposit the funds into the existing restricted NACo conference account #IN20049 within the Community Relations budget to be used for expenses related to the 2010 NACo conference; approve fund balance [\$3,927.65] in the NACo conference account #IN20049 being transferred to the Employee Scholarship Fund #IN20310, and if approved, direct Finance to make appropriate adjustments. (All Commission Districts.)”

On behalf of the Board, Commissioner Jung thanked the Atlantis Casino Resort Spa for their generous donation.

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11H(4) be accepted, approved and directed.

11-76 AGENDA ITEM 11I(1) – PUBLIC WORKS

Agenda Subject: “Accept changes to Equipment Services Division Policies and Procedures as revised, effective January 25, 2011. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11I(1) be accepted.

11-77 AGENDA ITEM 11I(2) – PUBLIC WORKS

Agenda Subject: “Adopt Resolution accepting real property [APN 123-133-22 totaling 229 square feet] for use as a public street right-of-way at the intersection of Gonowabie Road and State Highway 28; and if adopted, authorize Chairman to execute the Resolution and authorize the Public Works Director to record the Resolution. (Commission District 1.)”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11I(2) be adopted, authorized and executed. The Resolution for same is attached hereto and made a part of the minutes thereof.

11-78 AGENDA ITEM 11J(1) - PARKS

Agenda Subject: “Accept grant [\$91,100 - County match \$55,325 (\$2,400 in-kind labor/volunteers and \$52,925 WC-1 Regional Parks, Open Space and Trails Bond)] from Nevada Division of State Parks Recreation Trails Grant Program for Huffaker Hills Trailhead Phase II; and if accepted, authorize Regional Parks and Open Space Director to execute the Project Agreement with Nevada Division of State Parks and sign all subsequent documents and reports associated with this grant; authorize Finance to make appropriate budget adjustments; and, authorize the Regional Parks and Open Space Department to request proposals for selection of a qualified contractor to construct the project. (Commission District 2.)”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11J(1) be accepted and authorized.

11-79 AGENDA ITEM 11J(2) - PARKS

Agenda Subject: “Approve 5-year renewal of Recreation and Public Purpose Lease NVN-065532 with the Bureau of Land Management for APN 086-390-06 (80-acre portion of North Valleys Regional Park); and if approved, authorize Chairman to execute the Recreation Lease on behalf of Washoe County. (Commission District 5.)”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11J(2) be approved, authorized and executed.

11-80 AGENDA ITEM 11K(1) – SENIOR SERVICES

Agenda Subject: “Accept cash donations [\$9,952.31] for the period October 1, 2010 through December 31, 2010 for the second quarter of Fiscal Year 2010/11; and if accepted, direct Finance to make appropriate budget adjustments. (All Commission Districts.)”

On behalf of the Board, Commissioner Jung thanked the donors for their generous donations.

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11K(1) be accepted and directed.

11-81 AGENDA ITEM 11K(2) – SENIOR SERVICES

Agenda Subject: “Accept an honorarium [\$2,500] from MetLife Foundation’s Generations United to support intergenerational support and programming for the Sun Valley Community Center; and if accepted, direct Finance to make appropriate budget adjustments. (Commission Districts 3 and 5.)”

On behalf of the Board, Commissioner Jung thanked MetLife Foundation’s Generations United for their generous donation.

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Humke, which motion duly carried with Commissioner Weber temporarily absent, it was ordered that Agenda Item 11K(2) be accepted and directed.

11:30 a.m. The Board convened as the Board of Fire Commissioners for the Sierra Fire Protection District (SFPD). Commissioner Weber returned during the SFPD meeting.

12:00 p.m. The Board adjourned as the SFPD Board of Fire Commissioners and convened as the Board of Fire Commissioners for the Truckee Meadows Fire Protection District (TMFPD).

12:54 p.m. The Board adjourned as the TMFPD Board of Fire Commissioners and reconvened as the Board of County Commissioners with all members present.

VOTE

The following agenda items were consolidated and voted on in a block vote: Agenda Items 14, 15, 17, 18, 19 and 21.

11-82 AGENDA ITEM 14 – PUBLIC WORKS

Agenda Subject: “Recommendation to approve variance to the requirements of Article 416 of the Washoe County Development Code, “Flood Hazards”, and require the mitigation measures as recommended by staff. (Commission District 2.) Continued from January 11, 2011 County Commission Meeting.”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Weber, which motion duly carried, it was ordered that Agenda Item 14 be approved.

11-83 AGENDA ITEM 15 - PURCHASING

Agenda Subject: “Request for authorization to join on the State of Nevada Bid No. 7817 for Plantmix/Coldmix with A & K Earth Movers Inc. and Sierra Nevada Construction for the duration of the contract period through November 30, 2011 on behalf of the Roads Division of the Washoe County Public Works Department; and if approved, authorize Purchasing & Contracts Manager to make such purchases as may be required in annual amounts that may exceed \$100,000 but will not exceed approved fiscal year budget authority. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Weber, which motion duly carried, it was ordered that Agenda Item 15 be approved and authorized.

11-84 AGENDA ITEM 17 - SHERIFF

Agenda Subject: “Recommendation to authorize creation of one full-time Deputy Sheriff effective January 1, 2011 to serve as a Bailiff for the new Second Judicial District Court Department 15 [annual cost approximately \$90,000 to be funded with either proceeds of the Court Security Fee or by the General Fund]. (All Commission Districts.) Continued from December 14, 2011 Commission Meeting.”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Weber, which motion duly carried, it was ordered that Agenda Item 17 be authorized.

11-85 AGENDA ITEM 18 - SHERIFF

Agenda Subject: “Recommendation to accept a direct grant award from the Nevada Division of Emergency Management Federal Fiscal Year 2010 Department of Homeland Security Grants, Nevada Division of Emergency Management Project No. 97067HL1 [total \$385,521.48 - no County match] (State Homeland Security Program); and if accepted, authorize Finance to make necessary budget adjustments. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Weber, which motion duly carried, it was ordered that Agenda Item 18 be accepted and authorized.

11-86 AGENDA ITEM 19 - SHERIFF

Agenda Subject: “Recommendation to approve sole source purchase of DataWorks Plus National Institute of Standards and Technology Manager Plus, LiveScan Plus and Single Automated Fingerprint Identification fingerprint and photo imaging systems from DataWorks Plus utilizing previously approved grant funding and federal forfeiture funds [\$162,010.75]. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Weber, which motion duly carried, it was ordered that Agenda Item 19 be approved.

11-87

AGENDA ITEM 21 – TRUCKEE RIVER FLOOD MANAGEMENT PROJECT

Agenda Subject: “Recommendation to approve and execute an Agreement for Professional Services between the County of Washoe and Manhard Consulting, Ltd. to provide engineering services to develop Phase-2 of the Regional Hydrologic Model by taking data and developed processes from the pilot study on the Sun Valley Watershed and applying it to the Truckee River Watershed above the Vista Gage [not to exceed \$900,000 payable from the Truckee River Flood Project Operating Fund Account 211 (1/8% sales tax for Truckee River Flood Management Infrastructure)]. (All Commission Districts.)”

There was no public comment on this item.

On motion by Commissioner Larkin, seconded by Commissioner Weber, which motion duly carried, it was ordered that Agenda Item 21 be approved and executed.

12:56 p.m. The Board recessed.

1:30 p.m. The Board reconvened with Commissioners Humke and Weber absent.

11-88 **AGENDA ITEM 23 – TRUCKEE RIVER FLOOD MANAGEMENT PROJECT**

Agenda Subject: “Discussion and possible action to approve Interlocal Agreement between the County of Washoe, the City of Reno and the City of Sparks for the Truckee River Flood Management Project (JPA); and if approved, authorize Chairman to execute the Interlocal Agreement; authorize Washoe County, upon request and with reimbursement, to provide administrative services to support the project; and, appoint two Commissioners as the first Washoe County representatives to the new Flood Management Authority (the Interlocal Agreement with Reno and Sparks would establish the Truckee River Flood Management Authority, a Joint Powers Authority, to acquire, finance, construct, own, operate and maintain the Truckee River Flood Management Project.) (All Commission Districts.)”

Naomi Duerr, Truckee River Flood Project Coordinator, conducted a PowerPoint presentation, which was placed on file with the Clerk. The presentation highlighted the goals, early and recent background, Joint Powers Authority (JPA) Agreement process, benefits of the JPA versus the current approach, Flood Project Coordinating Committee (FPCC) retreat held on January 14, 2011, summary of the key elements of the JPA Agreement including: nature of the organization; board members and voting; regulatory issues; partner provisions; and, other provisions. Also noted were the number of Board members per partner, the timeline and the composition of the JPA Board, parties to the agreement and the key provisions.

1:33 p.m. Commissioners Humke and Weber returned during the PowerPoint presentation.

Commissioner Weber remarked that the estimated cost was not \$1.6 billion when this project began in 2006. Ms. Duerr indicated when she began with the Flood Project in 2005 the estimated cost was \$350 million. She stated in some ways the County was a victim of the Army Corps of Engineers (Corps) planning process. She explained every three years the Corps were requested to prepare and update a cost. Ms. Duerr said some things were not completely costed when the \$350 million estimate was received.

Commissioner Weber asked why the project would be intended for ratepayers who did not reside in a flood district. Ms. Duerr explained in some perspectives the Flood Project was thought of as who received the direct benefits of the Project. She said a term was derived “direct beneficiaries,” but citizens who did not live or own a business in the flood zone would also benefit. Ms. Duerr gave several examples of those who would be affected and unaffected.

Chairman Breternitz inquired about the objective criteria or guidelines used to define the scope of work. Ms. Duerr explained the Corps had completed a project in the 1960’s. However, in 1988 realized there were unintended consequences from that project and conducted a “General Reevaluation Report.” She said that new project addressed new issues as well as fixed some of the old issues. The Corps arrived at new criteria of what made a project viable and that project was also shelved. It was determined that the County’s project did not meet the new criteria, which was “for every dollar spent, there be a dollar saved.” Due to continued diligent advocacy from the community, the Corps reevaluated the project again in the fall of 1996. When the flood of 1997 occurred on New Years Day, the Corps saw that the damage done by the flood exceeded \$1 billion in six counties, \$700 million in Washoe County alone. Ms. Duerr said an Environmental Impact Study (EIS) and public scoping meetings began the development for the scope of study of the Flood Project plan. After the reevaluation, the new project was delivered in 2000, but was unacceptable and rejected by the community. Spearheaded by the newly formed Community Coalition and, after numerous meetings, another process began to re-scope the new plan. She said the final project was proposed by the Coalition in 2003 and became the objective. In 2006 the scope was slightly amended to fix fish passages and then adopted by the FPCC and the Board of County Commissioners.

Chairman Breternitz asked if there were guiding principles for the scope of work. Ms. Duerr said the community wanted protection from the 1997 flood, which was calculated to be a 117-year flood protection. The community also did not want concrete culverts or hard-edged levees. She said it was also determined that the levees and any flood protection features be set as far back from the River as possible and that restoration of the River be an important component. Chairman Breternitz inquired about the timing for the funding or the initiation of the collection of fees and how that related to

approval for the project funding. Ms. Duerr replied the scoping and planning began to arrive at a product, which was an EIS, and a General Reevaluation Report (GRR). She said after an alternative formulation briefing, the EIS and GRR went through a public review. The Corps would then state that those were the elements in the Flood Project and what the Corps would cost share, which would be sent for public review. After the public returned their comments, the GRR and EIS would be finalized and forwarded to the Chief of the Corps to complete a Chief's report. That report would be sent to Congress and be considered as part of the Water Resources Development Act (WRDA). Ms. Duerr said pressure had been put on the Corps to finalize their planning and, in response, the Corps returned with the "Reset Initiative." She indicated that the Corps had selected three projects from around the Country to see if those projects could be completed sooner than the estimated 14 years. Ms. Duerr said the Flood Project had been placed at the front and was now scheduled to go before Congress as part of the WRDA 2011. If Congress approved the project, a Project Partnership Agreement (PPA) could be entered into, which would set the Corps responsibilities and the JPA's responsibilities. She stated that the Project had made so much progress the Corps were willing to enter into a Design Agreement where they would begin designing the project before authorization.

Chairman Breternitz asked when the local fee portion would begin in relationship to the parallel line with the federal government and the target for implementation. Ms. Duerr replied it was estimated that the fees would be ready for consideration during the summer of 2011 and implemented during the fall of 2011. Chairman Breternitz asked what would occur if the fees were levied but the Corps failed to fund the project. Ms. Duerr explained the fees had to be implemented from the 1/8 cents sales tax and would move forward with or without the Corps. Given the current economic situation, Chairman Breternitz asked if there was an alternative scope of work that would add a large measure of flood protection, but at a reduced cost. Ms. Duerr replied it all resulted from the level of flood protection that was sought.

Chairman Breternitz asked if the current economy had been a factor in the discussions and/or decisions to push this project forward. Commissioner Larkin explained the Corps did the costing and did not consider the state of the economy, but evaluated the level of protection sought by the community, which was 117-year protection. He explained the FPCC was not fixated on that 117-year protection; however, wanted a 100-year level of protection for the community. Based on the level of protection the community needed, Commissioner Larkin said the FPCC decided to cap the cost at \$525 million from a local contribution. Irrespective of the total price tag that the Corps set, Ms. Duerr added reality had shown that even in the height of the economy a number of projects were able to be built for about one-third of the cost. She stated the Corps had experience in costing some projects, but not as much in others, so cost had to be viewed as a guideline and an authorizing amount for Congress.

Chairman Breternitz commented that the JPA would not have the approval process over development, projects and/or building permits. Ms. Duerr stated that was correct. Chairman Breternitz said prior to the JPA voting on issues, such as implementation of fees, would there be a process for the different respective entities to

vote on or endorse. Ms. Duerr replied that she would take her lead from the Board and, if there were sensitive issues, those would be vetted before consideration.

In response to questions regarding debt, John Sherman, Finance Director, explained the JPA contained two avenues; revenue debt, which was revenue generated by the JPA to include the sales tax; and, the imposed fees. He said if the County-bond bank were chosen, the County would be the full-faith credit backer of the debt. He indicated there were protections within the JPA documents stating there would have to be a certain amount of reserves for changes in revenue reserves, in terms of having reserves to pay debts, operation and maintenance and capital improvements. He suggested if and when the JPA came to the County to receive the full-faith and credit backing of the debt, he would advise the Board to place protection features in the proposal. Commissioner Larkin stated this was the model used by the Truckee Meadows Water Authority (TMWA), except TMWA did not have the option of obtaining the full-faith and credit from the County.

Chairman Breternitz inquired on the projected annual operating budget for management and administration put in place by the JPA. Ms. Duerr replied that would be approximately \$2 million. Chairman Breternitz asked if an alternative measure or a private source had been considered to provide those services. Ms. Duerr said that could be considered once the project was authorized. Chairman Breternitz asked if the work already completed and the expenditures in terms of land acquisition would be credited toward the local contribution. Ms. Duerr replied that was expected to occur. She indicated the land had been acquired and the process recommended by the Corps, which was a Yellow Book appraisal process that included a review appraiser; however, whenever that land was made available, the Corps would have to reappraise the land. She explained that the steps were followed and were in an early land acquisition plan, but every year the Corps sent a letter stating since the project had not been approved or a Project Partnership Agreement in place, the County was working at risk. Expected to be in the authorizing language, was that all the work was documented, not just the acquired land and credit would be received for everything that could be credited. The Corps made it clear that credit would not be received for this meeting, FPCC meetings, working group meetings or any kind of stakeholder outreach process, only costs associated with land was creditable.

Once the project was completed, Chairman Breternitz inquired who would be liable if a flood exceeded the 117-year flood design standard. Ms. Duerr explained the Corps had design defect liability and construction management liability for the parts they and their consultants were involved in. She said if a flood overtopped a levee and that levee had been assumed by the County, that would be the responsibility of the JPA. She explained a design standard for a 117-year flood was being used; however, if a 250-year flood arrived and overtopped the levee it would not be the fault of the Flood Project. Once ownership was taken by the JPA and the Corps cleared, the JPA would be liable if the levee failed below the design and found to be a maintenance issue. She said the exposure could be insured up to a certain point and noted a reserve had been set aside for uninsured facilities.

Commissioner Weber asked why this project or the project elements could not be put to a vote of the citizens. Ms. Duerr indicated the public had been very involved in the project and this had been driven by the Community Coalition.

Commissioner Jung questioned the grandfathered portion of this review and if everything that had been approved had to go through the regulatory agency. Ms. Duerr explained if there was a planned unit development approval that subsequent approval, related to that planned unit development, did not have to go through the review process. If the planned unit development was amended or if there was a subsequent Special Use Permit or Grading Permit associated with the amendment then that would need to go through the review process. Commissioner Jung stated in seven years there would be a determination on whether to continue this body. Ms. Duerr explained that was called a “re-opener” and said there were clauses in the agreement that referred to terminating the agreement. Commissioner Jung asked when the appropriations received by the Corps could be expected. Ms. Duerr replied it was a year-by-year analysis. She explained once the project went into the approval cycle, where authorization was sought, the Flood Project would be looking for \$40, \$50 or even \$100 million a year. Commissioner Jung asked if the Corps would award and manage the contract once the money was appropriated. Ms. Duerr stated that was correct. She said for every dollar the Corps spends, the Flood Project had to match that by one-third and usually that match was squared up each year. In addition to the in-kind match, the Flood Project also had to provide the Corps with 5 percent cash for every part of the project, such as a project management increment.

Commissioner Larkin clarified that the approved development agreements did not need to be reviewed by the Flood Project at this time or at any future time unless there was a change or amendment. Greg Salter, Deputy District Attorney, stated that was correct.

In response to the call for public comment, Tray Abney, Reno Chamber of Commerce, thanked Ms. Duerr and her staff for meeting with the Chamber of Commerce. He said the Chamber preferred not to create a new level of government, but due to the conversations and State law regarding financing and liability issues, it was understood why a JPA needed to be formed. He was concerned about the regulatory language in Article 4 and developing future projects in the region.

Jess Traver, Builders Association of Nevada, applauded the efforts by staff for meeting with concerned citizens. He voiced similar concerns as noted by Mr. Abney about Article 4, but felt the situation was understood. Mr. Traver said everyone wanted to see a successful Flood Project and wished to support the Flood Project.

Buzz Harris, Associated General Contractors, said this was a complicated project that had a tremendous impact on the community. He felt everyone needed to contribute, enabling the community to move forward in a positive way.

Ed Hawkins stated there needed to be a sunset date on the tax for this project.

Ms. Duerr clarified there was a 30-year sunset clause built in, unless there were bonds outstanding and then the sales tax would continue to pay those bonds. She emphasized that the fees had not been set. Commissioner Larkin indicated there would be three phases to this project: planning; constructing; and, maintenance. He said the FPCC anticipated that during the maintenance phase those fees would be adjusted downward.

Commissioner Larkin remarked several comments were made about the establishment of a new agency. He said this was not a new level of government and stated the same employees would remain and be transferred to specialize in this project. He said since this was the largest single public works project in the history of Washoe County all three governments needed to be involved and work together. Commissioner Larkin moved to:

- Accept the staff report;
- Authorize the Chairman to sign the JPA and establish the Flood Project Management JPA;
- At a future date, appoint two members from the Board of County Commissioners to that body;
- Allow Washoe County to continue providing administrative services; and,
- Make the Findings of Fact as indicated in the staff report.

Commissioner Humke seconded the motion.

Commissioner Jung stated because of the impact this project would have on the local economy, she would support the motion. She asked the Flood Project representatives to ensure that a mainstay of this JPA and the Flood Agency was customer service, both internally and externally.

Commissioner Weber stated she would not support the motion. She knew the project was needed; however, did not think the community could withstand the additional financial burden.

Commissioner Humke understood that the Corps wanted one point of contact, which was not a good argument, but was practical and real. He stated there were ample public meetings held. He thanked Commissioner Larkin and City of Sparks Councilmember Ron Smith for their hard work.

On call for the question, the motion passed on a 4 to 1 vote with Commissioner Weber voting “no.” The Agreement for same is attached hereto and made a part of the minutes thereof.

Agenda Subject: “Recommendation to approve prior redemption of all or a portion of the Washoe County, Nevada General Obligation Golf Course Series 1997 Bonds additionally secured by pledged revenues of the Golf Course Enterprise Fund; approve advanced payment of the note payable to the City of Reno for the Sierra Sage Golf Course Effluent project and the North Valley Sports Complex Effluent project; approve and authorize Chairman to execute First Amendment To Sports Complex and Golf Course Effluent Reuse Agreement between Washoe County and City of Reno authorizing use of Sierra Sage groundwater right sale proceeds in Fund 4440 to pay the General Obligation Golf Course Series 1997 Bonds and the 2001 note payable to the City of Reno; and if all approved, direct Finance to make appropriate adjustments within the Parks Capital, Golf Course Enterprise and Debt Service Funds. (All Commission Districts.)”

3:05 p.m. Commissioner Humke temporarily left the meeting.

Doug Doolittle, Regional Parks and Open Space Director, said in 2005 the Board directed distribution of the proceeds from the sale of Sierra Sage groundwater rights to the North Valleys Regional Sports Complex concurrent with the Sports Complex and Golf Course Effluent Reuse Agreement of 1999. He said \$8.4 million was generated from the sale of 280 acre-feet of water.

During a joint meeting held on December 13, 2010, the Washoe County North Valleys Citizen Advisory Board (CAB) and the City of Reno Ward Four North Valleys Neighborhood Advisory Board (NAB) respectively passed motions recommending to the Commission the use of the proceeds from ground water right sales available in the Parks Capital Fund 4440 for the prior redemption and advanced payment of only the portion of the debt related specifically to the North Valleys Sports Complex and the Sierra Sage Golf Course, approximately \$1,873,279 plus applicable fees. Mr. Doolittle stated the available cash in Fund 4440 was \$7.5 million, representing the available proceeds and investment earnings from the sale of the 280 acres of Sierra Sage Golf Course groundwater rights in 2003 and 2005. Mr. Doolittle said the water right proceeds were dedicated for construction of the North Valleys Regional Park in the “Sports Complex and Golf Course Effluent Reuse Agreement.” He said the recommendation from the CAB and NAB would leave approximately \$477,700 of the Series 1997 Bond attributed to improvements made at the Washoe Golf Course unpaid.

Mr. Doolittle reviewed two options that were being presented to the Board. Option 1 would result in the expenditure of \$1,873,279. A portion of the Series 1997 Bonds, approximately \$477,700, would remain in debt service with repayment from pledged revenues of the Washoe Golf Course having a revised bond maturity of September 1, 2013 (it is currently September 1, 2017). The City of Reno Note Payable would be retired and the estimated savings in interest would be \$244,755. Option 2 would result in all debt service related to the Golf Course Enterprise Fund and the City of Reno Note Payable being retired. The estimated interest savings would be \$280,722.

Chairman Breternitz asked if revenues from the Washoe Golf Course had been used to support the operations or benefit the Sierra Sage Golf Course. Mr. Doolittle replied since it was one Golf Fund, the Washoe Golf Course provided the revenues to pay debt regardless of the location. Chairman Breternitz asked if that was an element of consideration when the CAB and NAB made their recommendation. Mr. Doolittle said that was discussed at those meetings, but they did not feel that was appropriate and felt strongly that the debt at Sierra Sage and North Valleys should be the highest priority.

In response to the call for public comment, Mike Mazzaferri indicated that his company had a short-term agreement with Washoe County to operate the Sierra Sage Golf Course. He said that agreement had been in place for 15 months with great success. He explained before the water rights were sold the Sierra Sage Golf Course did not pay for water and had no debt. Mr. Mazzaferri said retiring the debt would allow his company to enter into a long-term agreement with the County and ensure that the Golf Course remained open.

Sarah Chvilicek said during the December 13, 2010 joint meeting both Advisory Boards made recommendations for expenditures of funds designated to the North Valleys Regional Sports Complex. She said the CAB made the recommendation to pay off the debt owed to the Sierra Sage Golf Course and the North Valleys Regional Park, which was approximately \$1.9 million, and the balance of the funds be used for Park improvements to include, but not limited to, Babe Ruth baseball fields, a water park and a dog park. It was noted that the CAB recommended the citizens of the North Valleys, the CAB and NAB work with the Parks Department on identifying a list of priority projects for the Park. Ms. Chvilicek said the NAB recommended the debt be paid for the Sierra Sage Golf Course and the North Valleys Regional Park and the balance be used for Park improvements to include, but not limited to, an indoor water park and Babe Ruth baseball fields. In a joint meeting with elected officials from the County, the City of Reno and Advisory Board members, the recommendations of the CAB and NAB were further discussed. It was also announced that the City would work with the County to use residential construction money to build a neighborhood park, which was a win-win for the community. She said throughout the process the County had been amenable to ensuring that the input was received from anyone interested in providing feedback. She stated the process had been open and agencies had gone above and beyond to ensure input. Ms. Chvilicek hoped that the Board would make the best decision to ensure that the funds were allocated to the Park without causing further burden on fiscal management for the Park.

Byron Davis spoke on the need for improvement of the North Valleys Regional Park, especially the Babe Ruth baseball fields.

Ed Hawkins said the citizens sought assurances from the Board that once this debt was settled, actions would move forward to improve and finish the North Valleys Regional Sports Complex.

Chairman Breternitz recognized that the Fund was generated by the sale of water rights of the Sierra Sage Golf Course; however, Washoe Golf Course also contributed to the operations of Sierra Sage. He was concerned that when discussions ensued about distributing those funds there would be focus on keeping those funds in the North Valleys.

Commissioner Jung inquired about the recommendation from the Regional Parks and Open Space Commission. Mr. Doolittle replied there had not been a recommendation because that item was noticed incorrectly on their agenda. He said it would be before the Parks Commission during their February 2011 meeting. Commissioner Jung believed paying off the debt would put the County and the Parks Department in a much better position.

In some respect, Commissioner Jung agreed that the North Valleys had been overlooked by the County on some issues, but felt this was a whole County issue. She ensured the citizens that she would move forward and make the North Valleys Sports Complex a priority.

Commissioner Weber stated she had been involved with the North Valleys Sports Complex for many years. She said moving forward and paying off debt seemed to be the most practical solution. Commissioner Weber noted she would support the motion and committed to the North Valley residents to continue discussions.

On motion by Commissioner Jung, seconded by Commissioner Larkin, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that Option Two be approved. It was noted this option would result in all debt service related to the Golf Course Enterprise Fund and the City of Reno Note Payable being retired.

11-90 AGENDA ITEM 22 - MANAGER

Agenda Subject: “Acknowledge staff report and give possible direction to staff regarding next steps as a result of the vote on the WC-2 Ballot Measure relating to possible study of consolidation by Washoe County and the City of Reno (requested by Commissioner Breternitz). (All Commission Districts.) Continued from December 14, 2010 County Commission Meeting.”

Dave Childs, Assistant County Manager, said WC-2, an advisory only question on the November General Election Ballot, was passed by the voters during the November 2010 General Election. It had been previously requested that the Board discuss the next steps and what those next steps should be. Mr. Childs provided and reviewed three options, as noted in the staff report.

Chairman Breternitz felt the steps covered the three main issues related to any conversations about consolidation and, from an informational standpoint, those steps were critical.

Commissioner Larkin said his District had illuminated their feelings toward consolidation; however, he agreed with Option 3. He said there could be merit in the investigation and highlighting to all the entities where improvement could be gained.

Commissioner Jung also agreed with Option 3. She hoped that Option would also send out information about debt and bonds and provide outreach and education to the public explaining what consolidation would entail.

3:40 p.m. Commissioner Humke returned.

There was no public comment on this item.

On motion by Commissioner Jung, seconded by Commissioner Larkin, which motion duly carried, it was ordered that a Technical Advisory Committee be created to review several key issues. It was further ordered that the public education be expedited in respect to the bonded debt concerning Washoe County and the City of Reno.

11-91 AGENDA ITEM 24 - MANAGER

Agenda Subject: “Update on status of Shared Services efforts and possible direction to staff. (All Commission Districts.)”

Dave Childs, Assistant County Manager, announced the next meeting of the Shared Services Elected Officials Committee was tentatively scheduled for February 14, 2011. He said there was a subcommittee of the Shared Services Committee that was completing their work on building inspections and permitting and would next meet in February. He said the subcommittee would next review business licenses between the City of Reno, the City of Sparks and the County.

There was no action taken or public comment on this item.

11-92 AGENDA ITEM 25 - FINANCE

Agenda Subject: “Update and status report on Fiscal Year 2011/12 Budget and possible direction to staff regarding funding levels and budget planning guidelines for same. (All Commission Districts.)”

3:47 p.m. Commissioner Humke temporarily left the meeting.

John Sherman, Finance Director, reported during the December 14, 2010 workshop, the Board provided broad direction and a goal for Fiscal Year 2011/12 of ensuing organizational and financial sustainability. He stated that goal would not be easy in a decision-making climate dealing with an economy that remained depressed, the State looking to address a multi-billion dollar deficit through program and/or revenue shifts that would negatively impact local government budgets, and labor costs continuing to rise

faster than revenues could support. He emphasized that all of these changes would impact the County's financial and organizational stability.

Mr. Sherman said the proposed budget plan balanced the Fiscal Year 2011/12 budget closing the \$33.5 million deficit and set a foundation for sustainability by:

- Resetting the cost of delivering services;
- Refining the focus on which services the County could sustainably continue to deliver;
- Rethinking ways for greater efficiency in delivering core services; and,
- Investing fund balances to achieve long-term changes in service delivery and labor costs.

Mr. Sherman said the property taxes, which made up about 55 percent of the General Fund revenue were forecasted to continue to decline and would not keep up with the cost to provide services in Fiscal Year 2011/12 or into the near future. He said labor costs, which represented more than 75 percent of the General Fund operating budget, would continue to grow at rates not supportable by current revenue sources. He reviewed the three tables included in the staff report that highlighted the projected changes in major revenues, projected changes in major expenditures (before reductions) and the projected General Fund budget deficit for Fiscal Year 2011/12.

Mr. Sherman said the County was at the statutory property tax rate of \$3.66 per \$100 of taxable property value; therefore, increasing property taxes was not an option. He said Consolidated Taxes were controlled by State law and the Board could not change those laws without legislation authorization. Mr. Sherman said another option could be to increase the Government Services Tax (GST), which was the tax people paid on their car and truck registrations. Imposing that tax could generate about \$8 million a year in new revenue, which could be an increased risk while the local economy has 13.8 percent unemployment and continued job losses.

Mr. Sherman said the recommended budget plan to close the \$33.5 million deficit was composed of reductions in expenditures coming from labor costs and department operating budgets. It also included the use of fund balances to bring transition costs to bring about long-term cost changes in labor costs and to phase in service delivery changes. He reviewed the details of the plan, which were outlined in the staff report, as permanently lowering labor costs by \$13.8 million; refine the focus of services provided to achieve \$5 million in savings for Fiscal Year 2011/12; rethink ways to achieve greater efficiency and attain \$5 million in savings from Department operating budgets; and, investing fund balances of \$9.75 million to create long-term changes.

Mr. Sherman stated the Board had charged the Organizational Effectiveness Committee (OEC) with conducting a fundamental review of the resource allocation process to ensure that it supported creating a sustainable organization. Currently, the budget reductions had been budget-prioritization, with services being prioritized into four groups from the work done by the Charting Our Course (COC)

Committee in 2004. However, with such significant budget reductions over the last four years, it was prudent to make sure that the prioritization approach was properly calibrated to support a sustainable organization. After the OEC conducted their fundamental review, they recommended the County adopt a budget prioritization method that simplified prioritization into three categories of services:

- Core Services
- Non-Core Services
- Services in Transition (which could be core or non-core services)

The OEC recommended that the definition for a Core Service be; “A core service is central to fulfilling the Board’s mission of making Washoe County a safe, secure, and healthy community.”

Mr. Sherman said it had been recognized that some departments had blended service missions with some services directly related to the safety, security and health of the community, and others being an administrative service or not core related. He said staff would work with departments that had those blended missions on their budget plans. In April those plans would be presented to the Board at the budget hearings. Mr. Sherman provided the schedule indicating the specific savings targets for each department.

Commissioner Jung said it had been discussed how labor costs and revenue versus expenditures were unsustainable. She said during the last round of budgets, it was being attempted to bend the curve. She asked for an update on that attempt. Mr. Sherman said that curve had been bent for the past few years, but those were limited fixes.

In regard to the GST, Commissioner Larkin asked if the assumption of the \$0.01 was under the current economic environment. Mr. Sherman stated that was correct. Commissioner Larkin stated the maximum suggested for the GST would be \$8 million over the next few years. Mr. Sherman said that would be correct, but he still believed that the automobile sector was a sector of the economy used to gauge the GST; however, that sector still suffered tremendously.

Chairman Breternitz commented that the \$33.5 million projected shortfall did not include what the State proposed to take from the County. Mr. Sherman replied that was correct. He said the \$33.5 million did not anticipate that proposal and noted staff would be watching that closely. Chairman Breternitz asked if the County should plan to include those reductions. Mr. Sherman suggested that those reductions be closely monitored and engage in the process during the course of the Legislative Session. He said staff would brief the Board on particular items that were moving forward and the changes being made. Katy Simon, County Manager, emphasized that contingency plans would be developed.

In response to the call for public comment, Pam Keller, Washoe County Sheriff’s Office Supervisory Association Vice President, said the membership recognized

the commitment in the face of the demanding years ahead. She said it was also recognized that there were financial constraints and responsibilities that all must face and share. Ms. Keller stated that each and every County employee needed to be respected. She said there were fewer people working, but the population they were sworn to serve and protect had substantially increased and the services provided to the public had remained unchanged. She said it had become comfortable to demonize public employees because it was too hard for most people to properly target the banks and financial entities that created the financial nightmare. As law enforcement managers, they worked every day to ensure people went out in the community knowing they were of placing their lives at risk, but were the most important part of keeping civil and peace within the community.

Commissioner Larkin inquired on the involvement department heads had in the process. Ms. Simon replied other than it being the same plan as last year, the department heads had not been involved in the process. Commissioner Larkin stated the Board had a retreat scheduled for February 1, 2011 and asked if this topic would be on the retreat agenda. Ms. Simon replied there was a department head meeting scheduled for January 26, 2011 and a meeting with the labor association scheduled for January 27, 2011 to discuss the deficit and the rationale for the strategy.

Richard Gammick, District Attorney, indicated that the February 1, 2011 agenda was noticed as the strategic planning retreat. He asked how the budget discussion would take place.

Ms. Simon noted that the agenda was posted and per direction was about strategic planning. Melanie Foster, Legal Counsel, indicated there was time to change the agenda to include the budget discussion.

Amy Harvey, County Clerk, asked for clarification regarding the OEC role and their definition of what a core service was and, how that process mingled with the budget process.

Ms. Simon replied that the OEC grappled with the notion of Core Services and focused on what was mission critical to public safety, security and health.

On motion by Commissioner Jung, seconded by Commissioner Larkin, which motion duly carried with Commissioner Humke temporarily absent, it was ordered that the update and status report on the Fiscal Year 2011/12 budget be acknowledged and that staff move to meet those goals. It was further ordered to modify the agenda for the Board retreat scheduled for February 1, 2011 to include budget discussions.

11-93 AGENDA ITEM 26 – GOVERNMENT AFFAIRS

Agenda Subject: “Discussion and possible direction to staff regarding legislation or legislative issues proposed by legislators, by Washoe County or by other entities permitted by the Nevada State Legislature to submit bill draft requests, or such

legislative issues as may be deemed by the Chair or the Board to be of critical significance to Washoe County. (All Commission Districts.)”

John Slaughter, Management Services Director, distributed and reviewed information concerning the General Fund reallocations, County participation for services, eliminated State programs impacting the Counties, and the Child Welfare Block Grant for Clark and Washoe County, which was placed on file with the Clerk.

Commissioner Larkin asked if it had been determined what the effect could be on Washoe County concerning the eliminated State programs. Katy Simon, County Manager, said information was still being gathered and many details were unknown. Commissioner Larkin asked how much was taken last year from property rates. Ms. Simon replied the State in total took \$0.09; however, that was not all taken last year, previously \$0.05 of the Capital Facilities Tax rate was taken.

There was no action taken or public comment on this item.

4:40 p.m. The Board recessed.

5:33 p.m. The Board reconvened with all members present.

11-94 AGENDA ITEM 20 – DISTRICT ATTORNEY

Agenda Subject: “Introduction and first reading of an Ordinance amending the Washoe County Code repealing certain sections of Chapter 55 relating to penalties established for violations of the animal control provisions and by enacting provisions regarding animal control in Washoe County by setting forth unlawful acts relating thereto, proscribing criminal and civil penalties for violations of the animal control provisions, by allowing the utilization of Washoe County’s civil enforcement process; and providing for other matters properly relating thereto. Set second reading and public hearing for February 8, 2011 at 6:00 p.m. (All Commission Districts.)”

Amy Harvey, County Clerk, read the title for Bill No. 1639, "AN ORDINANCE AMENDING THE WASHOE COUNTY CODE REPEALING CERTAIN SECTIONS OF CHAPTER 55 RELATING TO PENALTIES ESTABLISHED FOR VIOLATIONS OF THE ANIMAL CONTROL PROVISIONS AND BY ENACTING PROVISIONS REGARDING ANIMAL CONTROL IN WASHOE COUNTY BY SETTING FORTH UNLAWFUL ACTS RELATING THERETO, PROSCRIBING CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS OF THE ANIMAL CONTROL PROVISIONS, BY ALLOWING THE UTILIZATION OF WASHOE COUNTY’S CIVIL ENFORCEMENT PROCESS; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO."

Richard Gammick, District Attorney, stated this had been a four-year process. He explained the major impact of the proposed amendment would be to decriminalize animal control offenses to the extent allowed by NRS. Presently, a violation of an animal control ordinance resulted in a misdemeanor criminal citation being issued to the offender. As a result, the Justice Courts had jurisdiction to adjudicate the offenses. Mr. Gammick stated that the amendment would provide a civil penalty to be imposed as allowed by NRS 244.359(3). However, an offense relating to bites from animals, vicious or dangerous animals, horse tripping or cruelty to animals would still impose a criminal penalty in accordance with the statute. He said the majority of animal control offenses would be removed from the Justice Court dockets freeing up valuable court resources, and the expenditure of budgetary funds and manpower of the District Attorney's Office would be reduced. Mr. Gammick said the civil penalty process would operate much like a parking ticket process. He said this proposed amendment would modify Chapter 55.800.

Based on a meeting held on January 24, 2011 with four concerned citizens, Terry Shea, Deputy District Attorney, reviewed the revised changes in the proposed ordinance.

In response to the call for public comment, Dr. Richard Simmonds said the original intent for revising Chapter 55 was to identify problems with the statute. He said it now appeared to have morphed into an instrument to deal with the excessive work load of the District Attorney's Office. He said there had been insufficient justification presented to fast track either of the two proposed ordinances. Dr. Simmonds clarified that the Nuisance Ordinance had been worked on for four years, but not this particular Chapter. He noted that few people in the County were aware that the Nuisance Ordinance included animal issues. He said discussion on this matter had been inadequate and limited to an open house on January 22, 2011 and an online form for civic engagement on the County webpage, which reviewed the proposed ordinance without the new changes discussed by Mr. Shea. Dr. Simmonds requested that the proposed ordinance be deferred until after the two public forums scheduled in February were conducted.

Ardena Perry spoke on the proposed language for the definition concerning the duties of an Animal Control Officer.

Tony Yarbrough, Nevada People for Animal Welfare (NVPBW), spoke on the Notice of Civil Penalty and the concerns of NVPBW for transparency. He suggested staff place a revised date on every online document so the public would know the latest revisions. He felt the new language was a significant improvement from where it began, but more citizens needed to have an opportunity to participate and provide input. Mr. Yarbrough recommended that the proposed ordinance be sent to an assigned workshop and withhold the first reading pending the report of that workshop.

Doug Busselman expressed his concerns with the proposed ordinance and questioned if agriculture would be impacted with some of the changes being proposed.

He did not want livestock and the authority of agriculture over livestock to be confused inside the process for animal control.

Kimberly Rhodemyre spoke on the dangerous dog definition in the ordinance.

Chairman Breternitz indicated that the section of the ordinance being reviewed did not include definitions.

Trish Swain commended Animal Services Manager Mitch Schneider for his commitment to animals, animal control and Regional Animal Services. She said the changes to the ordinance suggested by the Regional Animal Services should be implemented.

Tim Stoffel questioned the swiftness of this process and the lack of candor by Animal Control. He said the changes made to the ordinance presented were good, but asked if they would be changed again. Mr. Stoffel questioned if the changes gave Animal Control too much free rein in issuing citations.

Chris Vaught said in general she supported this part of the ordinance; however, had concerns over the definitions as they existed in the other section of the ordinance and felt this was being reviewed in isolation. From the standpoint of the definitions, she requested the whole ordinance be reviewed holistically.

Commissioner Larkin said this was a continuation of the Nuisance Ordinance dialogue, which established a Hearing Officer for animal control. Mr. Shea clarified there was not a Hearing Officer specifically established for Animal Control, but noted it referred to a list of Hearing Officers. Commissioner Larkin said the general trend was to decriminalize nuisances along with certain actions with Animal Control. Mr. Shea replied that was correct. Commissioner Larkin asked for an update on this process and/or public involvement over the last 14 months. Mr. Shea explained there had been an item on the Animal Control Board agenda since June 2010 to update that Board on the changes being made to the entire ordinance. Due to manpower and budget concerns, the ordinance had been divided to move forward with this section. He said on December 27, 2010 the Animal Control Board held a special meeting where the public was invited to give comment and noted that only three people attended. Commissioner Larkin questioned the rationale for dividing the Code into two respective components. Mr. Shea replied that was due to manpower requirements to staff the new Department 15 in District Court and the inordinate amount of time taken in Justice Court to prosecute these cases.

Mr. Gammick said the decision was made to divide the two and move forward with this section to allow for a first and second reading since it would take about two months to have the ordinance passed.

Commissioner Larkin asked if this part of the ordinance moved forward, was there not a second part that allowed a Notice of Civil Penalty to be written until the

other portion of Code was in affect. Mr. Shea replied the Hearing Officer would now be able to issue a Notice of Civil Penalty for anything that they currently issued a criminal citation for. He said if the violations were changed within Chapter 55, then those would be changed; however, the fact of a violation would not change or the fact that a Notice of Civil Penalty could be issued for those new violations. Commissioner Larkin questioned if this was enacted who would make that judgment. Mr. Shea clarified there were only three or four violations that must remain criminal. Commissioner Larkin questioned until that was passed, how would a Hearing Officer make that decision in the field.

Melanie Foster, Legal Counsel, said by statute there were certain matters that must remain criminal and not determined by Code. Commissioner Larkin understood, but there were other items being attempted to move to the civil side and he was attempting to understand the juxtaposition. He questioned without the other ordinances being effectuated how a Hearing Officer in the field would make that discretionary determination. Mr. Shea explained those Officers would be trained that the first option would be the civil process. Commissioner Larkin felt it was difficult to make discretionary determination when only part of the ordinance was being presented. Mr. Shea said when passed this section would state “any of the animal violations that existed.” He said any of those violations could be subject to a Notice of Civil Penalty. Commissioner Larkin stated he understood; however, was concerned that would not be reached for three months.

Ms. Foster clarified that was reached when the Board adopted Chapter 55 and created the Regional Animal Services. She said Chapter 55 already contained the matters deemed to be violations. If this were adopted before the rest of Chapter 55 was amended, the only difference would be that Animal Control Officers had the ability to issue a Notice of Civil Penalty. Ms. Foster emphasized that the underlying violations were already in Code and had been enforced by Animal Control. Commissioner Larkin questioned how a Hearing Officer would make that determination in the field without the subsequent other Codes in affect. Ms. Foster clarified the Code was in affect and had already been enforced. Commissioner Larkin asked if the draft changes to Chapter 55.01 would clearly provide guidance to what was criminal and/or civil. Ms. Foster remarked there was no difference in what would be enforced, it was how it was being enforced. Commissioner Larkin stated he could not make that determination without reviewing the whole Chapter.

Mr. Gammick clarified that Chapter 55.010 to Chapter 55.800 would still be in affect. He said the only thing rescinded by this proposal was section 55.800. He said if the other sections were not amended those would remain in place. Mr. Gammick said the proposed Code stated that a Hearing Officer could not issue a criminal misdemeanor citation until the fourth violation of these particular sections.

Commissioner Jung appreciated what staff had completed and speaking with citizens to review their concerns; however, she was not in support of introducing this bill and felt it needed to be reviewed in its entirety. She said the Board had not received the changes until this afternoon nor had the citizens. Commissioner Jung

suggested this be postponed to receive more citizen input and review of the entire package.

Chairman Breternitz said there was a reference that this item had been presented to the Animal Control Board since June 2010. He asked if the Animal Control Board was presented the same language as included in the Board's packet. Mr. Shea replied that language had been online since October or November of 2010. Chairman Breternitz asked when was the language included in the Board packet distributed to the public. Mr. Shea did not have that answer.

Commissioner Larkin said he had previously requested a review of the Professional Services Agreement and the juxtapositioning. Katy Simon, County Manager, said the discussion pertaining to the Professional Services Agreement had been scheduled for the February 22, 2011 Board meeting. She noted that a subsequent public workshop on February 11, 2011 had been scheduled, and she would propose to bring forward the Animal Control portions of the Ordinance to the Board meeting on March 8, 2011.

Commissioner Larkin asked if a continuance of this item until March 8, 2011 would be consistent with the bill enactment codes. Ms. Foster explained the Board could consider both ordinances at the same meeting. She said there was no point in continuing the first reading, but stated the continuance would enable staff to finalize the changes, then produce two ordinances at the same meeting. She commented there was no advantage in continuing because the first reading started the clock running for legal publication. Commissioner Larkin stated there was no time clock if this were continued. Ms. Foster concurred and noted it could be continued and another first reading scheduled.

Chairman Breternitz was concerned if the information that the Board and the public were reviewing was the same and felt it was difficult to act on anything that was in a state of flux.

Commissioner Humke said on January 7, 2011 he met with constituents who noted several problems with a document, which was not a public document. He said on a theory that was correct information, he went to the Community Relations Director and noted there was a problem. He said it was after the Community Relations Director contacted Mr. Gammick that the ordinance became bifurcated. Commissioner Humke agreed this should be continued until March 8, 2011 because the revised draft was not able to sufficiently be reviewed by the public or the Board. He suggested the upcoming workshop on February 11, 2011 be a more relaxed method and allow ample public comment.

Commissioner Humke asked if the District Attorney could withstand the postponement. Mr. Gammick replied he was concerned this may be placed on the back burner. He thanked the Board for making a date certain.

On motion by Commissioner Larkin, seconded by Commissioner Jung, which motion duly carried, it was ordered that Agenda Item 20 be continued to March 8, 2011 to be considered with the other Code changes for Chapter 55. It was further ordered that this be included in the aforementioned workshops.

11-95 AGENDA ITEM 27 – COMMUNITY DEVELOPMENT

Agenda Subject: “Second reading and adoption of an Ordinance amending the Washoe County Code Chapter 110, Development Code, Article 406, Building Placement Standards, to increase the density for manufactured home parks within the Medium Density Suburban (MDS) and Medium Density Suburban 4 (MDS 4) regulatory zones for all areas within Washoe County previously designated Trailer Overlay (TR) zoning and providing other matters properly relating thereto (Bill No. 1638). (All Commission Districts.)”

The Chairman opened the public hearing by calling on anyone wishing to speak for or against adoption of said Ordinance. There being no response, the hearing was closed.

Amy Harvey, County Clerk, read the title for Ordinance No. 1458, Bill No. 1638.

On motion by Commissioner Jung, seconded by Commissioner Larkin, which motion duly carried, Chairman Breternitz ordered that Ordinance No. 1458, Bill No. 1638, entitled, "AN ORDINANCE AMENDING THE WASHOE COUNTY CODE CHAPTER 110, DEVELOPMENT CODE, ARTICLE 406, BUILDING PLACEMENT STANDARDS, TO INCREASE THE DENSITY FOR MANUFACTURED HOME PARKS WITHIN THE MEDIUM DENSITY SUBURBAN (MDS) AND MEDIUM DENSITY SUBURBAN 4 (MDS 4) REGULATORY ZONES FOR ALL AREAS WITHIN WASHOE COUNTY PREVIOUSLY DESIGNATED TRAILER OVERLAY (TR) ZONING AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO (BILL NO. 1638)," be approved, adopted and published in accordance with NRS 244.100.

11-96 AGENDA ITEM 28 – REPORTS AND UPDATES

Agenda Subject: “Reports/updates from County Commission members concerning various boards/commissions they may be a member of or liaison to (these may include, but not be limited to, Regional Transportation Commission, Reno-Sparks Convention & Visitors Authority, Debt Management Commission, District Board of Health, Truckee Meadows Water Authority, Organizational Effectiveness Committee, Investment Management Committee, Citizen Advisory Boards).”

Commissioner Humke announced that the Reno-Sparks Convention and Visitors Authority (RSCVA) meeting was scheduled for this week. He was informed

during the Regional Transportation Commission (RTC) meeting that there had been a meeting with citizens to discuss the Road Impact Fees.

Commissioner Larkin announced that he was the new Vice Chairman for the RTC and City of Sparks Councilmember Ron Smith had been elected Chairperson. He said the RTC approved moving forward with the Southeast Connector plans.

Chairman Breternitz attended the Nevada-Tahoe Conservation District (NTCD) Board and noted that the Tahoe Regional Planning Agency (TRPA) would meet on January 26, 2011.

* * * * *

6:45 p.m. There being no further business to discuss, on motion by Commissioner Jung, seconded by Commissioners Weber, the meeting was adjourned.

JOHN BRETERNITZ, Chairman
Washoe County Commission

ATTEST:

AMY HARVEY, County Clerk and
Clerk of the Board of County Commissioners

*Minutes Prepared by:
Stacy Gonzales, Deputy County Clerk*

APN: 123-133-22

*When recorded return to:
Washoe County Engineering Division
1001 E. 9th Street, A255
Reno, NV 89512*

**RESOLUTION ACCEPTING REAL PROPERTY
FOR USE AS A PUBLIC STREET
(GONOWABIE ROAD AT THE INTERSECTION
OF STATE HIGHWAY 28)**

Irrevocable Offer of Dedication, Gonowabie Road, Section 19, Township 16 North, Range 18 East as described and shown in Exhibit "A" (a copy is attached and is incorporated by reference), DOCUMENT NO. 3951465, RECORDED December 9, 2010.

WHEREAS, it is a function of the County of Washoe to operate and maintain public streets; and

WHEREAS, certain real property as described in Exhibit "A" (a copy is attached and is incorporated by reference) to be used as a public street was offered for dedication by Irrevocable Offer of Dedication, Document No. 3951465 recorded on December 9, 2010; and

WHEREAS, said offer of dedication was rejected by the Director of Community Development because said street improvements on real property to be used as a public street were not constructed to Washoe County standards; and

WHEREAS, NRS 278.390 specifically provides that if the real property as described in Irrevocable Offer of Dedication Document No. 3951465 is rejected, the offer of dedication shall be deemed to remain open and the governing body may by resolution at any later date,

11-77

117 (2)

and without further action by the property owner, rescind its action and accept the real property for public use; and

WHEREAS, street improvements on portions of said real property being used as a public street right-of-way have been recently constructed and now meet current County standards; and

WHEREAS, said real property is necessary for public access; and

WHEREAS, the Washoe County Board of Commissioners finds that it is in the best interest of the public to accept said real property.

NOW, THEREFORE, BE IT RESOLVED, by the Washoe County Board of Commissioners, pursuant to NRS 244.270, that the real property offered by Irrevocable Offer of Dedication Document No. 3951465 Recorded December 9, 2010, is hereby accepted.

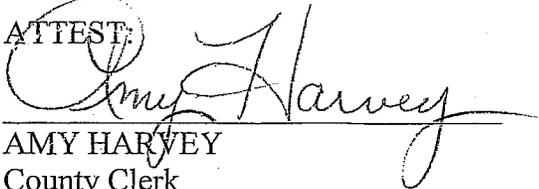
WASHOE COUNTY BOARD OF COMMISSIONERS



JOHN BRETERNITZ, CHAIRMAN

January 25, 2011

ATTEST:

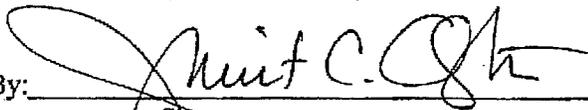


AMY HARVEY
County Clerk

IN WITNESS WHEREOF, Offerors have caused these presents duly to be executed the day and year first above written.

Juliet C Ashton

(Offeror's Name)

By: 
Signature

Juliet C. Ashton, owner

(Name & Title Printed)

STATE OF NEVADA)
)
)
COUNTY OF Carson) SS
~~WASHOE~~)

This instrument was acknowledged before me on December 8, 2010

(Date)

by Juliet C. Ashton

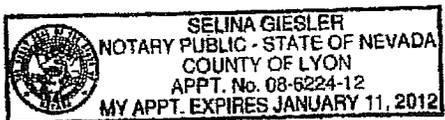
(Name)

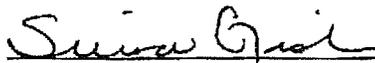
as owner

(Title)

of Juliet C Ashton

(Offeror's Name)





NOTARY PUBLIC

Accepted for the County of Washoe,
by and through the Director of Community Development

By: 

ADRIAN P. FREUND, ATCP

Director of Community Development

DESCRIPTION - AREA OF DEDICATION

SITUATE IN THE COUNTY OF WASHOE, STATE OF NEVADA, AS BOUNDED AND DESCRIBED AS FOLLOWS:

ALL THAT REAL PROPERTY, BEING A PORTION OF SECTION 19, T.16N., R.18E., M.D.B.&M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF LOT 18, BLOCK 14, AS DESIGNATED UPON THE UNOFFICIAL MAP OF CRYSTAL BAY PARK WHICH SAID MAP HAS NEVER BEEN FILED FOR RECORD IN WASHOE COUNTY, NEVADA, SAID POINT DISTANT THEREON S 6°34'00" W FOR 18.56 FEET FROM THE NORTHWEST CORNER OF SAID LOT 18; THENCE LEAVING SAID WEST LINE, THE FOLLOWING THREE (3) COURSES:

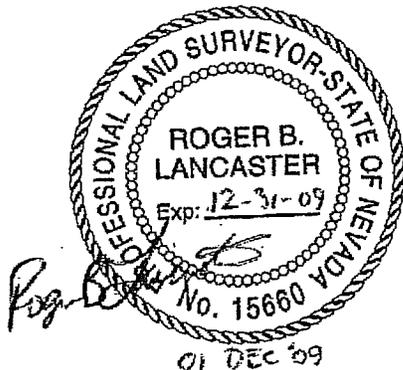
- 1) S 45°08'00" E FOR 50.04 FEET;
- 2) S 30°00'00" E FOR 8.84 FEET;
- 3) S 23°30'00" E FOR 9.37 FEET, TO THE SOUTH LINE OF SAID LOT 18; THENCE ALONG SAID SOUTH LINE, WEST FOR 5.11 FEET, TO THE SOUTHWEST CORNER OF SAID LOT 18; THENCE ALONG THE WEST LINE OF SAID LOT 18, THE FOLLOWING THREE (3) COURSES:

- 1) N 17°29'00" W FOR 16.06 FEET;
- 2) N 49°00'00" W FOR 45.60 FEET;
- 3) N 6°34'00" E FOR 6.35 FEET, TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

CONTAINING 229 SQUARE FEET, MORE OR LESS.

SEE "EXHIBIT MAP TO ACCOMPANY DESCRIPTION" ATTACHED HERETO AND MADE A PART OF THIS DESCRIPTION BY REFERENCE.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS SAID CRYSTAL BAY PARK SUBDIVISION (UNOFFICIAL), WASHOE COUNTY, NEVADA.



PREPARED BY
ROGER LANCASTER, PLS 15660
896 SOUTHWOOD BLVD. #3
INCLINE VILLAGE, NV 89451

DESCRIPTION - RESULTANT LOT 18A

SITUATE IN THE COUNTY OF WASHOE, STATE OF NEVADA, AS BOUNDED AND DESCRIBED AS FOLLOWS:

ALL THAT REAL PROPERTY, BEING A PORTION OF SECTION 19, T.16N., R.18E., M.D.B.&M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

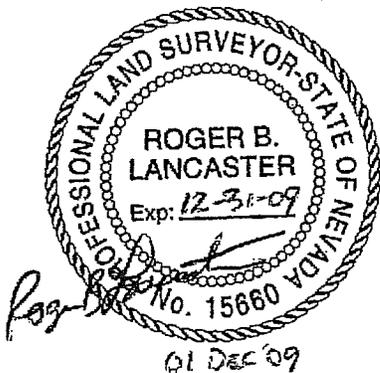
BEGINNING AT THE NORTHWEST CORNER OF LOT 18, BLOCK 14, AS DESIGNATED UPON THE UNOFFICIAL MAP OF CRYSTAL BAY PARK WHICH SAID MAP HAS NEVER BEEN FILED FOR RECORD IN WASHOE COUNTY, NEVADA; THENCE ALONG THE WEST LINE OF SAID LOT, S 6°34'00" W FOR 18.56 FEET; THENCE LEAVING SAID WEST LINE, THE FOLLOWING THREE (3) COURSES:

- 1) S 45°08'00" E FOR 50.04 FEET;
- 2) S 30°00'00" E FOR 8.84 FEET;
- 3) S 23°30'00" E FOR 9.37 FEET, TO THE SOUTH LINE OF SAID LOT 18; THENCE ALONG SAID SOUTH LINE, EAST FOR 95.43 FEET, TO THE SOUTHEAST CORNER OF SAID LOT 18; THENCE ALONG THE EAST LINE OF SAID LOT 18, N 12°02'00" W FOR 71.57 FEET TO THE NORTHEAST CORNER OF SAID LOT 18; THENCE ALONG THE NORTH LINE OF SAID LOT 18, WEST FOR 122.01 FEET, TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

CONTAINING 7,919 SQUARE FEET, MORE OR LESS.

SEE "EXHIBIT MAP TO ACCOMPANY DESCRIPTION" ATTACHED HERETO AND MADE A PART OF THIS DESCRIPTION BY REFERENCE.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS SAID CRYSTAL BAY PARK SUBDIVISION (UNOFFICIAL), WASHOE COUNTY, NEVADA.



PREPARED BY
ROGER LANCASTER, PLS 15660
896 SOUTHWOOD BLVD. #3
INCLINE VILLAGE, NV 89451

(Rev. 1-20-11)

INTERLOCAL COOPERATIVE AGREEMENT
(Truckee River Flood Management Project)

dated as of January 25, 2011

among

Washoe County, Nevada

and

The City of Reno, Nevada

and

The City of Sparks, Nevada

and

The Truckee River Flood Management Authority



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INTERLOCAL COOPERATIVE AGREEMENT
(Truckee River Flood Management Project)

dated as of _____

Article 1 PARTIES, DEFINITIONS

§1.01 Parties THIS AGREEMENT is entered into among

County Washoe County, a political subdivision of the state of Nevada
1001 E. Ninth Street; P.O. Box 11130
Reno, Nevada 89520-0027

Reno City of Reno, a municipal corporation
One East First Street
Reno, Nevada 89501

Sparks City of Sparks, a municipal corporation
431 East Prater Way
Sparks, Nevada 89431

Authority Truckee River Flood Management Authority
a joint powers authority
9390 Gateway Drive, Suite 230
Reno, Nevada 89521

§1.02 Definitions The following words have the following meanings as used in this Agreement.

2005 Cooperative Agreement means the “Truckee River Flood Management Project Cooperative Agreement” entered into between Washoe County, the City of Reno, the City of Sparks, and the University of Nevada, Reno, in April of 2005, as amended.

Affected Member means a Member who will be affected by (i) the proposed construction of a Flood Management Facility within the Member’s jurisdiction, (ii) a proposed amendment to its Development Code, or a proposed change to the Regional Master Plan, Regional Water Plan, Emergency Plan or action indicated in Article 4 hereof, or (iii) an application for a project to be developed in whole or in part within the Member’s jurisdiction.

Authority means the Truckee River Flood Management Authority created under this Agreement.

AB 54 means Chapter 325, Statutes of Nevada, 2009, 1428, now codified as NRS 244.3653.

Board means the Board of Directors of the Authority.

Capital Improvement Plan(s) means the plans prepared and approved as provided in §5.01.

Debt Instrument means any written instrument promising to repay a debt or undertaking to pay an obligation, including, but not limited to any or combination of: a note, warrant, bond, temporary bond, interim debenture, an instrument, a medium term obligation, a special obligation, a certificate of participation, an installment purchase agreement, and a contract regarding variable rates of or the exchange of rates interest. The term includes any instrument pledging revenues or granting security interests, mortgages or other encumbrances against assets as security for any of the foregoing.

Development Code means, all plans (including the master plan adopted pursuant to NRS 278.220), ordinances, resolutions and policies regarding the use and development of land, zoning, planned developments, subdivisions, parcel maps, and the like.

Director means a person who serves on the Board of Directors as provided in ¶3.03.A and ¶3.03.B.

Executive Director means the chief executive officer and chief administrative officer of the Authority appointed under ¶3.07.B

Facilities Plan(s) means one or more plans depicting the location of and describing one or more proposed or existing Flood Management Facilities. Facilities Plans may be drawn at different levels of detail and adapted for different uses, such as plans to include in land use master plans, plans submitted to the United States for funding authorization, and detailed construction plans for construction bidding.

Fee Revenues means the revenues generated from the fees, rates and charges imposed under §6.01 and any interest or investment income thereon.

Flood Management Project means a Flood Management Project as defined in Sections 4 and 16 of SB 175.

Flood Management Facilities. means all facilities acquired or constructed by or under an agreement with the Authority for the purpose of managing and controlling flood waters, including, but not limited to, all flood structures, levees, floodwalls, ecosystem restoration projects, floodplain improvements (including terracing, bank stabilization and recreational facilities), and the land or other interests in land (such as flowage easements) acquired for the purpose of controlling flood waters or reducing damages caused by floodwaters.

Gross Revenues means revenues generated to pay for the Flood Management Project, including, but not limited to (i) the Truckee River Flood Management Infrastructure Fund Flood Project Net Revenues pledged under ¶6.02 of this Agreement, (ii) the fees, rates and charges imposed and collected under §6.01 of this Agreement, and (iii) grants, loans or revenues from other sources received by the Authority.

Infrastructure Tax means the 1/8 per cent infrastructure sales tax authorized by NRS Chapter 377B (Tax for Infrastructure) and imposed by Washoe County in December of 1998 under Ordinance 1048, now codified at WCC 20.914, and all amendments and changes to applicable statutes and ordinances.

Infrastructure Tax Plan means the Infrastructure Tax Plan adopted by the Board of County Commissioners under NRS 377B.100 (6) as amended from time to time. The plan includes a description of each proposed project, the method of financing and the costs related to each project. The initial Infrastructure Tax Plan was adopted by the Board in 1998 for the financing of a regional emergency dispatch facility, a public safety training facility and the U.S. Army Corps of Engineers Flood Control Project.

Infrastructure Tax Plan for Truckee River Flood Management Project means the portion of the Infrastructure Tax Plan relating to the Truckee River Flood Management Project. See “Second Amendment (2009) to Infrastructure Tax Plan Adopted November 17, 1998 for Public Safety and Flood Control Projects relating to the Truckee River Flood Management Project, December 8, 2009.”

Living River Plan is a plan, as amended from time to time, for the whole Truckee River Flood Management Project. It includes statements of objectives, project element descriptions, and maps depicting and describing the entire project (including flood damage reduction facilities, ecosystem restoration, and recreational projects) from West of Reno to Pyramid Lake. The plan was formerly called the Community Coalition Plan, and is intended to serve as the “Locally Preferred Plan” for submission to the United States Congress as a part of project authorization. It was originally adopted in March of 2006 by the Flood Project Coordinating Committee following years of cooperative planning by a community coalition.

Member means Member of the Authority as identified in ¶3.01.B

Member’s Jurisdiction means for the County, the unincorporated boundaries of Washoe County, and for Reno and Sparks, their respective incorporated boundaries except that with respect to a proposed regulation of the Authority under Article 4 of this Agreement, the Member’s Jurisdiction includes any spheres of influence, which are areas (as defined in NRS 268.623) into which a city plans to expand as designated in a comprehensive regional plan adopted pursuant to NRS 278.026 to 278.029.

Project Partnership Agreement (PPA) means an agreement entered into between the Authority and the United States Army Corps of Engineers involving the development,

financing, construction, operation and maintenance of the Flood Project in accordance with federal law and USACE regulations.

SB 175 means Chapter 477, Statutes of Nevada 2009, page 2735, as amended from time to time.

TRAction Project (Truckee River Action Projects) means a project authorized by the Authority to be commenced before congressional authorization of the Flood Project and the execution of a PPA with the USACE, or a project which is being built without cost sharing by USACE.

Truckee River Flood Management Project means the project established under and contemplated by this Agreement to control floods and manage floodplains, including all regulatory plans and measures, all financing and other agreements, and the construction, operation and maintenance of all Flood Management Facilities.

Truckee River Flood Management Infrastructure Fund means the fund described in NRS 377B.150 for the benefit of the Truckee River Flood Management Project together with monies deposited and held therein and interest or investment income earned or accrued on such monies held in the account.

Truckee River Flood Management Infrastructure Fund Flood Project Net Revenues means the balance remaining in the Truckee River Flood Management Infrastructure Fund after paying or reserving for the following obligations (a) Washoe County, Nevada, Sales Tax Revenue Bonds Series 1998, and (b) Washoe County, Nevada, General obligation (Limited Tax) Flood Control Bonds Series 2006, or the refundings thereof.

Truckee River Watershed means the geographic area where runoff drains into the Truckee River between Tahoe City, California and the Vista Gauge near Sparks, Nevada.

URA means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, 42 U.S.C. 4601 et seq, and the implementing regulations of the U.S. Department of Transportation, 49 CFR Part 24, together with any USACE Regulation or state statute (NRS Chapter 342) that the Authority must observe when acquiring property and relocating displaced persons.

USACE means the United States Army Corps of Engineers.

Western Regional Water Commission Act means the Western Regional Water Commission Act, Chapter 531, Statutes of Nevada 2007, as amended.

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INTERLOCAL COOPERATIVE AGREEMENT
(Truckee River Flood Management Project)

Article 2 RECITALS AND PURPOSE OF AGREEMENT

§2.01 *Recitals.*

WHEREAS:

A. Significant flooding of the Truckee River and its Key Tributaries occurs at least once every ten years and inflicts catastrophic (i) loss of life and property; (ii) disruption of commerce, transportation, communication and essential services which not only impair the ability to provide public safety and health services but also have adverse economic impacts; (iii) waste of and reduction in the quality of water; and (iv) deterioration of public health and safety;

B. The Members share a common and compelling interest in jointly regulating and controlling waters of the Truckee River and its Key Tributaries that flow through their territories to reduce or mitigate such damages or losses, and since 1986 have been working with community coalition citizen groups, working groups, local agencies, and the United States Army Corps of Engineers to develop the “Living River Plan” that contemplates a series of coordinated Flood Management Facilities along the Truckee River which would reduce or mitigate flood damage, would provide ecosystem restoration and could be enhanced with recreational facilities;

C. In 2005, the Members entered into the 2005 Cooperative Agreement which, among other things, established a Flood Project Coordinating Committee to design and determine ways to finance a project including flood control facilities, ecosystem restoration and recreation projects for the benefit of the metropolitan area. Cooperative efforts were accomplished through a Flood Project Coordinating Committee which has approved project plans and methods of financing them;

D. Effective flood damage reduction requires coordinated and cooperative efforts in (i) conducting scientific hydrological and hydraulic studies to determine and predict the sources, characteristics, behavior and forces of floodwaters in the Truckee River area, and the effects that land use, land development, and governmental practices may have on floods; (ii) planning for the control of floods and management of floodplains and integrating uniform plans in the local Development Codes, and regional water resource and land use master plans required by statute; (iii) constructing, operating and maintaining flood control and management facilities to prevent or minimize flood damage, and (iv) entering into agreements with other government or private agencies to regulate or control floodwaters, promote governmental efficiency and the minimize damage caused by flooding or conditions that could lead to flooding;

E. In 2009, the Nevada legislature enacted Senate Bill 175 (2009 Statutes of Nevada, Chapter 477, page 2735):

1. Declaring that Flood Management Projects provide a benefit to residents and owners of property by (i) preventing the loss of life and property, (ii) preventing the disruption of essential services for the safety of the public and the disruption of commerce, transportation, communication and essential services which have adverse economic impacts; (iii) preventing the waste of water resulting from floods; (iv) providing for the conservation, development, and use and disposal of water and improved quality of water; (v) providing for ecosystem restoration and enhanced recreational facilities; and (vi) providing for the safeguarding of the public health; and

2. Establishing the power for cities and counties to levy and collect fees, rates and charges to acquire, improve, equip, operate and maintain a flood management project, and permitting the cities and counties to delegate that power to a flood management authority created by an interlocal cooperative agreement under NRS Chapter 277;

F. The Members are authorized under various provisions of NRS Chapter 277 to enter into an interlocal cooperative agreement that would, among other things, create a flood management authority to carry out the coordinated and cooperative efforts of the Members in implementing a successful flood management program as described in Recital D above;

G. In adopting this Agreement, the governing bodies of the Members have determined that the Truckee River Flood Management Project as contemplated herein would (i) prevent the loss of life and property, (ii) prevent the disruption of commerce, transportation, communication and essential services which have adverse economic impacts; (iii) prevent the waste of water resulting from floods; (iv) provide for the conservation, development, use and disposal of water and improved quality of water; (v) provide for ecosystem restoration and enhanced recreational facilities; and (vi) provide for the safeguarding of the public health;

H. The Members believe that enhancing Flood Management Facilities with recreational features is an efficient method of using public facilities and provides a significant public benefit, and should be achieved as a priority basis;

I. In 1998, Washoe County established the Infrastructure Tax to, among other things, assist in the financing of a flood control project, and desires to devote the Truckee River Flood Management Infrastructure Fund Net Revenues to the financing of the Infrastructure Tax Plan for the Truckee River Flood Management Project;

J. The U.S. Army Corps of Engineers (USACE) requires a local sponsor for a water resource project to be a legally constituted public body with full authority and capability to perform the terms of its agreements with the Corps and to pay damages, if necessary, in the event of failure to perform; and

NOW, THEREFORE, pursuant to the provisions of this Agreement, for the purposes stated above, and in consideration of the mutual promises contained herein, it is hereby agreed by and between the parties as follows.

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INTERLOCAL COOPERATIVE AGREEMENT
(Truckee River Flood Management Project)

**Article 3 TRUCKEE RIVER FLOOD MANAGEMENT
AUTHORITY**

§3.01 *Formation and Membership.*

¶3.01.A Creation. The parties hereby jointly create the Truckee River Flood Management Authority (the “**Authority**”) as an independent and separate entity to manage, operate and control the Truckee River Flood Management Project and carry out the purposes of this Agreement.

¶3.01.B Members.

Members of the Authority are Washoe County, City of Reno, and the City of Sparks. Members may be added to the Authority by amendment to this Agreement, and Members may withdraw only in accordance with §3.09 below.

¶3.01.C Independent Status of Authority.

The Authority shall be a body corporate and politic and a public agency independent and separate from its Members. The debts, obligations and undertakings of the Authority are not the debts, obligations and undertakings of and are not binding on its Members, even if the Members approved or ratified them. Unless otherwise agreed in writing approved by the Member, the Authority is not an agent of any Member, and no Member is an agent of the Authority. No Member may be assessed to pay or cover any costs, expenses, losses or obligations of the Authority.

¶3.01.D Duration of Existence. The Authority shall have a perpetual existence unless and until dissolved.

¶3.01.E Boundaries. The jurisdictional boundaries of the Authority shall be the boundaries of Washoe County, including the Members Jurisdiction for the incorporated City of Reno, and the incorporated City of Sparks as those boundaries exist today and as amended from time to time by the Members.

¶3.01.F Principal Office. The principal office of the Authority shall be within Washoe County as determined by the Board.

§3.02 *Conferred Functions/ Delegated Powers and Prohibited Functions and Powers*

¶3.02.A Conferred Functions: Subject to the provisions of ¶3.02.C, the conferred functions of the Authority are as follows:

Regulatory

- i. To regulate the flow and control of floodwaters and the management of floodplains along the Truckee River with respect to flooding along the Truckee River within Washoe County and propose plans and regulations as provided in Article 4 of this Agreement;
- ii. To perform emergency management functions as defined in NRS 414.035 and perform the functions of a local organization for emergency management under NRS 414.090 with respect to flooding along the Truckee River as provided in Article 4 of this Agreement;
- iii. To regulate the actions of residents, businesses and others as a collective action in conjunction with the Members, to foster the goals set forth in §2.01;

Revenue and Finance

- iv. To charge, impose, assess, levy, collect and enforce fees, rates and charges in accordance with Article 6 of this Agreement;
- v. To establish and amend from time to time the Infrastructure Tax Plan for the Truckee River Flood Management Project as provided in Article 6 of this Agreement;
- vi. To finance acquisition, improvement, construction, equipping, operating and maintaining the Truckee River Flood Management Project by issuing Debt Instruments or entering into financing agreements with other entities who may issue Debt Instruments, and irrevocably pledging the Gross Revenues to the repayment of such Debt Instruments;
- vii. To provide financial assistance to owners of public and private properties in areas that are likely to be flooded in order to make such property resistant to flood damage in accordance with NRS 244.3653;
- viii. To invest funds on hand in accordance with applicable law including NRS Chapter 355

Project construction, operation and maintenance

- ix. To acquire, improve, construct, equip, operate and maintain the Truckee River Flood Management Project and all Flood Management Facilities;

- x. To be the “non-federal project sponsor” for the Truckee River Flood Management Project to solicit federal authorization and funding and enter into agreements with federal agencies for the acquisition, improvement, construction, equipping, operating and maintaining the Truckee River Flood Management Project; and
- xi. To operate and maintain the early warning system of tracking stations and sensors located throughout the Truckee Meadows and Eastern Sierra Nevada mountains and disseminate to Members and other affected entities information that is useful in predicting, among other things, the possibility of flooding.

¶3.02.B Delegated Powers

1. The Authority is hereby delegated and shall have all powers necessary and incidental to the accomplishment of the conferred functions listed in ¶3.02.A, including, but not limited to the power:

- i. To assess, collect, account for and disburse Gross Revenues as provided in Article 6;
- ii. To cause the attachment of and enforce liens on property in connection with the fees rates and charges if authorized by statute applicable within the Member’s Jurisdiction where the property lies;
- iii. To commence and prosecute judicial or nonjudicial actions to enforce the collection of Gross Revenues and settle by compromise and settlement agreements;
- iv. To borrow money and incur indebtedness or other obligations and issue Debt Instruments;
- v. To enter into financing agreements with issuers of Debt Instruments or other parties which may include the irrevocable pledge of Gross Revenues;
- vi. To prepare flood control and floodplain management plans and propose regulatory measures as provided in Article 4 of this Agreement;
- vii. To enter into contracts affecting the affairs of the Authority, including but not limited to (a) contracts with entities and individuals to provide property, goods or services to the Authority, including professional services; (b) interlocal agreements and interstate compacts authorized under NRS Chapter 277; (c) contracts with the United States of America and any of its agencies or instrumentalities; (d) contracts with any municipality, district or public agency for the operation of a common or jointly owned project or the performance of duties related to control of floods or management of floodplains; and (e) contracts of indemnity;
- viii. To temporarily store floodwaters in surface detention or retention facilities within or without the jurisdictional boundaries of the Authority, and to save, conserve or reclaim floodwaters for present or future use of the Authority to the extent permitted by Nevada law;

- ix. To cooperate with other entities or agencies in the regulation of the flow of waters through the Truckee River and its Key Tributaries;
- x. To sue and be sued in its own name with all of the immunities and protections afforded by law to the Members;
- xi. To, in its own name, take by grant, purchase, gift, devise or lease, or otherwise, and to hold, use, operate, repair, maintain, enjoy and to sell, lease, or dispose of real or personal property or any interest in real or personal property of every kind within or without the boundaries of the Authority;
- xii. To adopt and amend bylaws, resolutions and policy statements not in conflict with state and federal Constitutions and laws of Nevada for carrying on business, objects and affairs of the Authority;
- xiii. To exercise all rights and powers necessary or incidental to or implied from the specific powers granted in this Agreement;
- xiv. To cooperate with the United States, the State of Nevada, or any instrumentality, department, agency or political subdivision or municipal corporation either in the construction, maintenance and operation of the Truckee River Flood Management Project, including entering into agreements (a) to acquire and provide with or without cost to the operating entity the land, easements and rights of way necessary for the construction of those projects; (b) hold and save harmless the cooperating entity from any claim for damages arising from any claim for damages arising from the construction, maintenance and operation of those projects; (c) maintain and operate all works in accordance with regulations of the cooperating entity; and (d) ensure compatibility with protection levels;
- xv. To establish and implement a program to provide financial assistance to owners of public and private property in areas that are likely to be flooded in order to make such property resistant to flood damage subject to the authority, limitations and requirements as provided in NRS 244.3653 as amended or any subsequent law relating to providing assistance in providing nonstructural solutions or facilities for flood control or prevention;
- xvi. To open and maintain bank accounts;
- xvii. To purchase and maintain insurance;
- xviii. To use the Gross Revenues and assets to indemnify and defend the Board, individual Directors, officers and employees of the Authority with respect to actions taken within the scope of their employment or authority;
- xix. To employ persons and provide employee benefits to such employees, including retirement benefits, health benefits, vacation and leave benefits;
- xx. To enjoy all rights of and perform all of the duties of a "local government" under NRS Chapter 354 (Local Financial Administration); and
- xxi. To perform any function provided for elsewhere in this Agreement.

2. County expressly acknowledges and agrees that action by the Board, as described in this Agreement, is all that is required for the Authority to exercise the powers and authorities it has been delegated and that approval by the Board of County Commissioners is not required for the completion of any exercise of such power or authority.

¶3.02.C Prohibited Functions and Powers.

1. Nothing in this Agreement shall be construed as authorizing the Authority to perform any function or to exercise any power within a Member's Jurisdiction that is inconsistent with state law or is not performable or exercisable by the Member.

2. The Authority does not have the power of eminent domain. The power of eminent domain must be exercised by the Affected Member in whose jurisdiction the property to be obtained is located. Before requesting that an Affected Member consider using eminent domain, the Authority must first comply with all applicable state and federal laws regarding the voluntary acquisition of land, including, but not limited to, all of the requirements and procedures set out in the URA regarding obtaining an appraisal, having the appraisal reviewed, making a written offer of just compensation, making all reasonable efforts to discuss the offer with the property owner and affording the owner reasonable opportunity to present material which the owner believes is relevant to determining the value of the property. If those reasonable efforts fail, the Board must make a written request to the governing body of the Affected Member to consider the use of eminent domain, which written request must: (i) give a history of all efforts to acquire the property by negotiations, (ii) explain why it is necessary to acquire the property in sufficient detail for the governing body to adopt a resolution of necessity as required by Nevada law, (iii) describe the estate to be acquired (fee title, easement etc) and justify why it is the minimum estate required, and (iv) propose a funding agreement whereunder the Authority will post a letter of credit for the just compensation to be offered as well as all costs and expenses. The governing body of the Affected Member shall within 90 days consider the request in its sole and absolute legislative discretion. The Authority shall not have the authority to bring any action to compel or prohibit the use of eminent domain by an Affected Member.

3. The Authority shall not abridge the exclusive power and authority of the Truckee Meadows Water Authority to negotiate, execute, and implement its obligations under the Truckee River Operating Agreement, as the successor in interest to Sierra Pacific Power Company, nor shall the Authority alter the rights and obligations under the Truckee River Operating Agreement or the rights and obligations of the Water Quality Settlement Agreement.

¶3.02.D Policies. In executing the conferred functions and exercising the delegated powers, the Board shall adopt resolutions establishing policies, practices and procedures with respect to the acquisition, management and disposal of property, the

purchasing of services and supplies, the approval of contracts by the board, the payment of relocation expenses as required by state and federal law, employee and labor relations, and as otherwise provided herein.

§3.03 *Governing Body of Authority.*

¶3.03.A Board of Directors. The policies, business and affairs of the Authority shall be conducted and governed by a Board of Directors consisting of two Directors for each Member, and each Director shall have one vote. The Directors shall serve without compensation.

¶3.03.B Appointment and Term of Directors.

1. The governing bodies of each Member shall appoint two Directors both of whom must be elected members of the governing body. If a Director resigns or ceases to be an elected official of the Member's governing body, a vacancy in the Board is automatically created, and the governing body shall replace him or her with another elected official for the remainder of the term.

2. In order to establish staggered terms, each Member shall appoint one Director for an initial term of one year, and one Director for an initial term of two years. After the initial term, Directors shall serve for terms as provided in subparagraph 3.

3. Unless a vacancy is created under ¶3.03.B 1, or unless a Director resigns or is sooner removed at the pleasure of the governing body of the appointing Member, Directors serve for a term of two years or until a replacement is appointed and qualified. Directors may serve for more than one term at the pleasure of the governing body of the appointing Member.

4. The governing body of each Member may appoint one or more alternates for each appointed Director. The alternate for a Director may sit in and vote for the Director when the Director is absent or abstains from voting on an issue.

5. Vacancies shall be promptly filled by the governing bodies of Members.

§3.04 *Meetings of Board.*

¶3.04.A Regular Meetings. The Board shall establish a regular meeting schedule to meet at a time and place to be selected by the Board, and may postpone or cancel meetings as it deems appropriate.

¶3.04.B Special Meetings. The chair may call special meetings at any time.

¶3.04.C Location. The Board may meet any place within or without the State of Nevada.

¶3.04.D Open Meeting Law. The Board is a public body and all of its meetings must be open and public and conducted in compliance with the Nevada Open Meeting Law (NRS Chapter 241).

¶3.04.E Rules of Procedure. The Board shall establish by-laws and rules of procedure governing the conduct of meetings. If by-laws and rules of procedure are not enacted, Roberts Rules of Order shall govern the conduct of meetings.

§3.05 *Quorum and Voting Requirements for Board Actions.*

¶3.05.A Quorum. A majority of all Directors must be present in order to conduct business at a meeting. A vacancy in the Board does not reduce the number of Directors required for a quorum or with respect to approval of actions.

¶3.05.B Approval of Actions. The following actions must be approved as follows.

Proposed action		must be approved by See Note [1] below:
1a	Any amendment, modification, partial or complete termination of this Agreement.	<ul style="list-style-type: none"> • Affirmative vote of all of the Directors present at the meeting where action is considered and • the governing bodies of all Members.
1b	The withdrawal or addition of any Member. [See §3.09]	
1c	Merger or combination of the Authority with another entity	
1d	Dissolution of the Authority	
2a	Proposed amendments or regulatory measures for inclusion in Local Development Codes under §4.02.B of this Agreement.	<ul style="list-style-type: none"> • Affirmative vote of all of the Directors present at the meeting where the action is considered and • the governing body of each Affected Member.
3a	Charge and impose, revise, adjust, waive or compromise of fees, rates and charges under §6.01	Affirmative vote of all of the Directors present at the meeting where the action is considered.
3b	Enter into or amend financing agreements or issue Debt Instruments. See Note [2]	
3c	The adoption and all amendments to the Living River Plan; and the adoption or amendment of the Infrastructure Tax Plan under ¶6.02.C.	
3d	The adoption and amendment of all capital improvement plans, but before the Board may take final action on any capital improvement	

	plan, it must first make a presentation to the governing bodies of all Members.	
3e	Adopt and amend by-laws of the Authority; and regulations, or resolutions or policy statements.	
3f	Approve budgets and amendments; approve and amend establishment of accounts, funds, coverage ratios and reserves per §6.06.	
4	All other actions, including, but not limited to approval and amendment of: <ul style="list-style-type: none"> • Facilities Plans which are consistent with the Living River Plan; • Other regulatory matters under Article 4; • Obtaining federal funding and entering into federal agreements. 	Affirmative vote of all of the Directors present at the meeting where the action is considered.

Note [1] The provisions of NRS 241.0355 regarding abstentions shall apply to the Board.

Note [2] However, the Board may provide in a Debt Instrument (as authorized in NRS 350.165) or a financing agreement that certain amendments and matters may be approved by the Executive Director.

¶3.05.C Respecting the legislative discretion and responsibilities of the governing bodies of the Members and other organizations, it is understood that a vote by a Director on a matter before the Board neither creates or implies any obligation for the Director or any Member or any other person to advocate or vote in a similar fashion when the matter or a similar matter is considered by other public bodies.

§3.06 *Officers and Committees of the Board.*

¶3.06.A Officers of the Board The Board shall elect from its membership a Chair and a Vice Chair, who shall be elected and qualified and serve for terms and perform duties as provided in the By-Laws of the Authority.

¶3.06.B Committees In addition to committees established in this Agreement, the Board shall appoint by resolution or in the By-Laws, other standing or ad hoc committees.

¶3.06.C Board Liability The Authority shall use the Assets and Gross Revenues to defend and indemnify Directors, officers and employees of the Authority for actions taken within the scope of employment or authority.

§3.07 *Executive Director, Employees and Counsel of Authority*

¶3.07.A Executive Director. The Executive Director shall be the chief executive officer and chief administrative officer of the Authority reporting directly to the Board. The Board shall establish by resolution the powers and responsibilities of the Executive Director. The Executive Director shall be appointed by and shall serve at the pleasure of the Board.

¶3.07.B Employees

1. All existing employees of the Flood Project Department of Washoe County shall remain as employees of Washoe County but under the control of the Authority as provided in Article 8 of this Agreement.

2. The Authority is a public employer under NRS 286.070.

¶3.07.C Counsel

The Board may appoint legal counsel. While legal counsel provides advice and assistance to the Executive Director and employees of the Authority, legal counsel is responsible directly to and serves at the pleasure of the Board.

¶3.07.D Chief Financial Officer/Treasurer.

The Executive Director may select and appoint subject to confirmation by the Board, a Chief Financial Officer who shall, in addition to other duties established by the Board, act as treasurer of the Authority.

§3.08 *Budget; Books and Accounting; Audit*

¶3.08.A Authority a “Local Government” As it will receive revenues from mandatory fees, rates and charges and assessments, the Authority is a “local government” under NRS 354.474 and shall comply with NRS Chapter 354.

¶3.08.B Fiscal Year. The fiscal year for the Authority shall be from July 1 to June 30 of each year.

¶3.08.C Budget.

1. The Authority shall prepare, present, adopt and administer its own separate and independent budget under the Local Government Budget and Finance Act (NRS 354.470 through 354.626).

2. The Authority shall not, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditures of money, in excess of the amounts appropriated for that

function, other than bond repayments, short term financing repayments, construction contracts for which funds are to be provided by a bond issue or other borrowing and any other long-term contracts as to which such expenditures are expressly authorized by law.

¶3.08.D Books and Accounts.

1. Complete books and accounts of the Authority shall be kept in accordance with generally accepted accounting principles and shall comply with all applicable statutes and regulations, including NRS Chapter 354.

2. The Authority may enter into a service contract with any public agency to perform accounting and budgeting functions provided that (i) accounts of the Authority are clearly identified and segregated, and are subject to access by Authority staff and audit as provided below; and (ii) the Board shall have exclusive control over all assets, revenues, books, and records and may adopt its own policies and procedures relating to budgeting and disbursements, and that any conflicting policy or procedure of the public agency is not binding on the Authority.

3. Members and their auditors shall have access to the books and records of the Authority at any reasonable time during business hours and may inspect and copy them without charge.

¶3.08.E Audit.

1. The Authority shall provide for an annual audit of all funds and accounts as provided in NRS 354.624.

2. A copy of each audit report shall be provided to each Member not later than six months after the close of each fiscal year. The Authority shall act upon any recommendations of the report within six months after receipt of the report, unless prompter action is required.

3. As required in the PPA with the USACE, the Authority shall establish procedures for keeping and auditing the books and records of the Authority, and such books and records are subject to audit by the USACE.

§3.09 *Withdrawal of a Member.*

¶3.09.A A Member may withdraw from the Authority only if approved by the Directors and Members as provided in ¶3.05.B. Before such approval, the Board and withdrawing Member must enter into an agreement which (i) may not, in the opinion of bond counsel for each Debt Instrument, or without the consent of the payee, beneficiary or holder of all Debt Instruments and financing agreements, violate or impair the full enforcement of any terms or provisions of all existing Debt Instruments and financing agreements; (ii) may not impair the collection or pledge of Gross Revenues for the remaining term of Debt Instruments or financing agreements in place at the time of the

withdrawal; (iii) may not cause delay or impair or interfere with any construction in progress or cause a violation of the PPA; (iv) must preserve integrity, intended level of protection and functionality of existing and future Flood Management Facilities; and (v) must provide for the operation and maintenance of Flood Project Facilities within the withdrawing Member's Jurisdiction.

¶3.09.B Unless otherwise approved in writing when the withdrawal is approved, the withdrawal of a Member:

1. Does not revoke, modify or otherwise impair the delegation of any power by the withdrawing Member contained in this Agreement with respect to the assessing and collecting of fees rates and charges by the Authority within the jurisdiction of the withdrawing Member. The Authority may continue to charge, impose, levy, collect, and revise fees rates and charges as established in this Agreement and such fees rates and charges remain effective and enforceable as against properties or individuals residing within the boundaries of the withdrawing Member to the same effect as if the withdrawing Member has not withdrawn.

2. Does not revoke, modify or impair any pledge of revenues or other obligations contained in this Agreement or any financing agreement which was relied upon in connection with the issuance of any Debt Instrument issued under this Agreement.

3. Does not discharge, amend, or impair any indemnifications under this Agreement, or any liability of the Withdrawing Member under NRS 277.130 except any liability or obligation arising out of conditions, circumstances or the conduct of Members which first occurs after the date of withdrawal.

4. Does not dissolve or terminate the Authority, which shall continue in existence under this Agreement.

5. Does not amend the boundaries of the Authority as they existed on the date of withdrawal.

§3.10 *Dissolution of Authority*

¶3.10.A Dissolution of the Authority may be accomplished only when approved as provided in ¶3.05.B or by order of a court of competent jurisdiction. Any agreement to dissolve the Authority must adequately provide for the repayment of and performance of all covenants in all outstanding Debt Instruments and financing agreements, the PPA, and all other agreements of the Authority.

¶3.10.B Distribution of Assets Upon dissolution of the Authority the conferred functions, delegated powers, revenues, assets, obligations and liabilities of the Authority:

1. Shall first be offered to a Member who enters into an agreement to assume all of the regulatory responsibilities and all of the obligations of the Authority hereunder and under all Debt Instruments and other contracts of the Authority, and to continue the construction, operation and maintenance of the Flood Management Facilities; or

2. If not distributed as provided above, may be sold or conveyed to another public agency as provided in NRS 277.050 or 277.053 who enters into an agreement to assume all of the regulatory responsibilities and all of the obligations of the Authority hereunder and under all Debt Instruments and agreements of the Authority and continue the construction, operation and maintenance of the Flood Management Facilities *provided, however*, that the conferred functions and powers delegated hereunder are terminated with the dissolution of the Authority, but each Member may enter into a new agreement with the entity conferring functions and delegating powers; or

3. If not so conveyed as provided above, (i) all functions conferred and powers delegated by each Member are terminated; (ii) all Flood Management Facilities that lie within the boundaries of each Member shall be conveyed to such Member; and (iii) centralized assets shall be liquidated and all cash and funds shall be first be distributed for the repayment of Debt Instruments and financing agreements, any surplus shall be distributed (unless otherwise agreed) as follows: (a) to the extent federal funds were used to acquire the liquidated assets, proceeds will be distributed in accordance with federal law, (b) the balance in the Truckee River Flood Management Infrastructure Fund shall be distributed to Washoe County, and (c) all remaining funds shall be distributed to the Members in accordance with the dissolution agreement.

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INTERLOCAL COOPERATIVE AGREEMENT
(Truckee River Flood Management Project)

Article 4 REGULATION, PLANNING AND MANAGEMENT OF FLOOD WATERS AND FLOODPLAINS.

§4.01 *Regulatory powers.*

¶4.01.A Public purpose; conferred functions and delegation of powers.

The Members confer the following functions to the Authority and delegate the powers on a *non-exclusive* basis, necessary and incidental to accomplish those functions and through the Board, agree to cooperatively plan and implement the Flood Management Facilities to regulate flood waters for the purpose of preventing the loss of life and property, preventing the disruption of essential public safety services, preventing the disruption of commerce and essential services which have adverse economic impacts, preventing waste of water from floods, providing for improved quality of water, providing for ecosystem restoration and enhanced recreational facilities, providing for and safeguarding the public health, and implementing and protecting the Truckee River Flood Management Project. The exercise of regulatory actions taken on behalf of, or with respect to, residents, businesses and any entities assessed fees by the Authority shall include those taken by its Members as well as those by the Authority directly.

§4.02 *Application review*

¶4.02.A Preamble; Project Partnership Agreement Responsibilities

1. Before the USACE will cost share a flood damage reduction project, it requires the non-federal project sponsor to enter into a Project Partnership Agreement which must contain language in accordance with Engineering Regulation ER 1165-2-131 and as explained in Engineering Pamphlet 1165-2-1, subparagraphs 13 b and 13 d, and as further explained in the Project Partnership Kit (IWR Report No. 96-R-10 – revised January 2001). Under a draft Project Partnership Agreement proposed in 2006 which incorporates model Project Partnership Agreement language, the Authority is required to (i) annually inform affected interests of the extent of protection afforded by the flood damage reduction features, [Article III, Paragraph O]; (ii) prepare and implement a floodplain management plan (as required by Section 402 of the Water Resources Development Act of 1986) designed to reduce the impacts of future flood events in the project area, including but not limited to addressing those measures to be taken by the Authority to preserve the level of flood protection provided by the flood damage reduction features, [Article III Paragraph Q]; (iii) publicize and provide floodplain information in the area concerned to zoning and other regulatory agencies for their use in

adopting regulations, or taking other actions to prevent unwise future development and to ensure compatibility with protection levels provided by the flood damage reduction features [Article III, paragraph R]; and (iv) prevent obstructions or encroachments on the project including prescribing and enforcing regulations to prevent such obstructions or encroachments such as any new developments on project lands, easements, and rights of way or the addition of facilities which might reduce the level of protection the flood damage reduction features afford, reduce the outputs produced by the ecosystem restoration features, hinder operation and maintenance of the project, or interfere with the project's proper function. [Article III, Paragraph S].

2. The Members agree that the Authority must monitor proposed land use changes and development and construction in the project area to endeavor to ensure that they do not change drainage patterns, or increase the quantity, timing and duration of flows in a manner that adversely affects the Flood Management Facilities built or to be built under the Truckee River Flood Management Project.

¶4.02.B Local Code Amendments; Content and adoption

1. From time to time, the Authority may propose floodplain management and flood control plans and regulations for Members to consider for adoption as amendments to appropriate parts of their Development Codes (the "**Amendments**"). The proposed Amendments shall be developed in cooperation and collaboration with the Members and other stakeholders (as defined and established in Authority regulations) and shall be designed to (i) preserve the level of flood protection as set out in the Facilities Plans, (ii) alleviate the adverse impact of developments and construction activities on Flood Management Facilities and floodplain management; and (iii) ensure compliance with the PPA.

2. Matters to be submitted to Authority.

a. For review and comment. The proposed Amendments shall include a requirement that the following items shall be sent to the Authority for review and comment under paragraph 4.02.B of this Agreement:

- i. All Master Plan updates and amendments initiated by a Member.
- ii. Applications for initial approval of, or amendments to, special use permits and planned unit developments if (a) the development or project in question is within the Truckee River Watershed (except for projects or developments that drain into Lake Tahoe); *and* (b) it is reasonably believed that the approval sought would potentially change the hydrologic response generated by the project site; and (c) applications for special use permits are not subject to review and comment by the

Authority and need not be sent to the Authority if the development or project in question is a final approved planned unit development.

- iii. Applications for initial approval of, or amendment to, tentative maps if the development or project in question is within the Truckee River Watershed (except for projects or developments that drain into Lake Tahoe). Applications for tentative maps are not subject to review and comment by the Authority and need not be sent to the Authority if the development or project in question is a final approved planned unit development.
- iv. Applications for grading permits where the grading is a part of an overall development or project that (a) has not already been approved as a part of a planned unit development, special use permit, or tentative map; (b) is within the Truckee River Watershed (except for projects or developments that drain into Lake Tahoe); and (c) exceeds the area or other threshold criteria established by regulation of the Authority.
- v. Applications for those types of new development projects specified by Authority regulations approved pursuant to Paragraph 3.05.B of this Agreement or required by Development Codes to be submitted to the Authority where (a) such new projects are within the Truckee River Watershed (except for projects or developments that drain into Lake Tahoe); and (b) where it is reasonably believed that the new development would potentially change the hydrologic response generated by the project site.

b. For information only. The proposed amendments shall provide that applications for (i) Master Plan Amendments initiated by land owners, (ii) zoning amendments, (iii) parcel maps, and (iv) tentative maps, grading permits and special use permits not required to be submitted for review and comment to the Authority under subparagraph 4.02.B.2.a above will be forwarded to the Authority for information purposes only, and not for review or comment.

c. Not to be submitted at all. The parties agree that applications for any approvals not described in subparagraph 4.02.B.2.a or 4.02.B.2.b above, including, without limitation applications for final maps, map extensions, annexations, records of survey, boundary line adjustments, variances, minor deviations and building permits are not subject to review and comment by and need not be submitted to the Authority at all.

3. The proposed Amendments shall establish a process for referring the matters identified in subparagraph 4.02.B.2.a above to the Authority for review and comment, including a requirement that the Authority must respond in writing within the deadlines established by the approving body, and that if the Authority fails to provide written determinations and recommendations by that deadline, the matter will be presented to the approving body without such recommendations and determinations. If the Authority fails to provide written determinations and recommendations on time and also fails to appear before the approving body, it shall be deemed to have waived any right of appeal to the Member's governing body or right to seek judicial review of the approving body's decision.

4. Once any proposed Amendments are agreed upon by Member and Authority staffs, they shall promptly be presented to the Member's planning commission or governing body for consideration in its sole legislative discretion. The Members' Planning Commission or Governing Body shall take action on proposed amendments within 6 months of their proposal following the Member's established process.

5. If a Member's planning commission or governing body does not timely adopt in its Development Code provisions substantially the same as the Amendments proposed under ¶4.02.B.1, the Board shall review what was adopted and take appropriate action to protect the Flood Management Facilities or honor its obligations under the PPA or other commitments. Fees, rates and charges shall not be imposed under §6.01 of this Agreement until all Members have adopted the Amendments set forth under ¶4.02.B.2 of this Agreement.

¶4.02.C Policies, Procedures, and Thresholds for Application Review.

1. Authority staff shall review matters referred to the Authority for review and comment under subparagraph 4.02.B.2.a above to ensure the activities will not have an adverse impact on the Flood Management Facilities or the functioning of the Truckee River Flood Management Project and advise Member staffs of their findings. A separate permit or approval shall not be required from the Board. Member staffs shall include all written comments by the Authority in their written presentations to the planning commission and governing body, but are not obligated to agree with or recommend approval of those comments and may make their own comments in their professional discretion.

2. The Authority shall adopt standards and procedures for Authority staff to follow in making determinations and recommendations regarding future land use and development.

3. The Authority may acquire, operate and maintain one or more hydraulic, hydrological or other types of models or other tools to determine the conveyance capabilities of the Flood Management Facilities and to assist in estimating the possible effects of the development of land or other events or circumstances on flooding, flood control plans, floodplain management plans, or the Flood Management Facilities. If the

Authority develops a regional hydrologic model, it shall cooperatively, through the Hydrologic Modeling Team, establish policies and procedures regarding ownership, quality control, quality assurance, operation and use of such model, including the use of the model by private entities.

4. The Authority may allow by agreement a Member to provide regulatory review and comment on an application submitted under ¶ 4.02.B.2.a.

¶4.02.D Interagency Hydrologic Modeling Team

1. The Executive Director shall assemble and administer an Interagency Hydrologic Modeling Team to advise the Executive Director on all matters relating to the design, operation, maintenance, use, and results of all hydrological models contemplated under subparagraph 4.02.C.4 above. Members of the committee shall have the power to examine all documents, codes, operating instructions, data, and runs and results of any hydrologic model owned or used by the staff of the Truckee River Flood Management Project.

§4.03 *Agreements of Authority.*

The Authority may enter into any agreements with other agencies or private individuals regarding the flow and control of floodwaters, the prevention or minimization of, the planning for or reaction to floods with respect to resources and powers of the Authority. If an agreement involves the resources of or legislative powers of a Member, the governing body of the Member must also approve the agreement.

§4.04 *Other regulations of Authority*

The Authority shall have the power to enact and enforce policies and regulations regarding internal operating procedures, and the use, operation, and maintenance of property owned (including easements) by the Authority, which must be approved by the Board in accordance with ¶3.05.B.

§4.05 *Flood Management Plans and Capital Improvement Plans.*

¶4.05.A The Authority shall prepare and from time to time amend Flood Management Plans and Capital Improvements Plans describing the system of Flood Control Facilities to manage and control flood waters passing through the Truckee River Flood Management Project to prevent damage from floods.

¶4.05.B Initially, the Authority shall adopt the most current version of the “Living River Plan” which has been approved by the Flood Project Coordinating Committee as the Flood Management Plan, and may thereafter from time to time approve changes and amendments as provided in [¶3.05.B]

§4.06 ***Regional Comprehensive Water Plan; membership in the Northern Nevada Water Planning Commission.***

¶4.06.A Preamble. In accordance with Section 42 of the Western Regional Water Commission Act, the Northern Nevada Water Planning Commission and Western Regional Water Commission (as defined therein) are responsible for preparing and adopting a Comprehensive Plan which must contain, among other things, plans and standards regarding the control of floods. Each of the Members has a seat on the Northern Nevada Water Planning Commission and the Western Regional Water Commission and the Members agree that a coordinated planning effort through the Board with respect to the flood control aspects of the Comprehensive Plan is the best approach.

¶4.06.B Flood control and floodplain management plans and amendments. In cooperation and coordination with planning staffs for each Member, and working in unison with Members' individual flood management facilities plans in their master plans, the Authority shall prepare and from time to time update, expand or amend floodplain management and regional flood control master plans or proposals for inclusion in the Comprehensive Plan prepared by the Northern Nevada Water Planning Commission to be adopted pursuant to Section 41 of the Western Regional Water Planning Act.

¶4.06.C Legislative discretion of Commissions. It is understood that members of the Northern Nevada Water Planning Commission and the Western Regional Water Commission shall exercise their legislative discretion on all reports, plans and recommendations by the Board, notwithstanding how Board members voted on them previously. A vote on an item by a Member's Director does not obligate a similar vote by representatives of the Member on either commission.

¶4.06.D Membership on Northern Nevada Water Planning Commission. The Members hereby agree to request the appointment of a representative of the Authority to be a voting additional member of the Northern Nevada Water Planning Commission with expertise in the area of flood control in accordance with Subsection 9 of Section 37 of the Western Regional Water Commission Act.

§4.07 ***Regional Master Plan***

¶4.07.A The Authority shall propose to the Regional Planning Commission plans and information contemplated by NRS 278.0274 (2) and (5) regarding floodplain management or Flood Management Facilities for inclusion in the Regional Plan adopted under NRS 278.0276.

¶4.07.B Each Member hereby agrees that if the Member appears before or submits any material to the Regional Planning Commission and/or the Regional Planning Governing Board with respect to

- i. The adoption or amendment of the regional plan under NRS 278.0276;
- ii. The guidelines and procedures for review of a project of regional significance under NRS 278.0277; or
- iii. Amendments to the Member's master plan as provided in ¶4.02.B.2.a.(i).

↳ the Member shall include any written material provided by the Executive Director that pertains to any Flood Management Facility or floodplain management plan approved by the Board or any determination based on application of the Flood Impact Model under ¶4.02.C.3, but the Member staff is not obligated to agree with or recommend approval of the comments and recommendations of the Authority and may submit its own comments in its professional discretion.

¶4.07.C Unless otherwise instructed by the Board, the Executive Director may appear before the Regional Planning Commission or Regional Planning Governing Board without prior approval by the Board but must obtain prior approval by the Board before seeking judicial review of any decision by the Regional Planning Governing Board.

§4.08 *Emergency Management Obligations and Powers of the Authority.*

¶4.08.A Planning Recommendations.

In cooperation and coordination with the planning staff of each Member, the Authority may prepare recommendations relating to flood control and floodplain management for inclusion in an emergency management plan under NRS Chapter 414, or in an interstate cooperative plan pursuant to NRS Chapter 415.

¶4.08.B Planning Privileges and Immunities. With respect to the preparation of inundation maps, the uses of the Flood Impact Model, and all plans approved by the Board under this Article, and with respect to the design, construction, operations and maintenance of facilities under Article 5 of this Agreement, it is the intent of the Members to confer the privileges and immunities that the Members have under NRS 414.110 to the fullest extent authorized under the law.

¶4.08.C Operational privileges and immunities. With respect to actions taken during an emergency by the Directors, officers and employees and contractors acting within the scope of their duties, to the extent permitted by law, it is the intent of the Members to confer on the Authority the functions and powers of a local organization for emergency management with respect to the conferred powers under this Article and Article 5 of this Agreement, *except that* (i) neither the Authority nor any of its directors, officers, or employees shall have any express or implied auxiliary police powers, and (ii) all powers conferred hereby are subordinate to any powers of the Members and to any powers of any organization for emergency management established by any one or combination of the Members.

¶4.08.D Flood Warning System. As a part of its emergency management powers and regulatory duties hereunder, the Authority shall assume the responsibilities of equipping, operating and maintaining an early flood warning system that was formerly operated under a series of interlocal agreements.

¶4.08.E Emergency Management Agreements The Authority may enter into agreements with other agencies or private individuals in furtherance of emergency management and planning under NRS Chapters 414, 415, or 416 with respect to resources under the control of the Authority. Any agreement with respect to the resources or legislative powers of a Member must be approved by the governing body of the Member.

§4.09 *Plans and relations with the United States.*

¶4.09.A The Authority shall have the exclusive authority:

- i. to enter into a Project Partnership Agreement with the United States Army Corps of Engineers with respect to the Truckee River Flood Management Project;
- ii. to prepare and approve the National Economic Development Plan, a Locally Preferred Plan, General Reevaluation Report, Environmental Impact Statements and all other plans and documents (including but not limited to monitoring plans, adaptive management plans, and floodplain management plans) pursuant to a Project Partnership Agreement with the Corps or as necessary to obtain Congressional authorization for the Flood Project.

¶4.09.B Provided that such agreements, plans and submissions are reasonably consistent with the current Living River Plan and Capital Improvement Plan the Authority may accomplish the foregoing without further ratification or approval.

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INTERLOCAL COOPERATIVE AGREEMENT
(Truckee River Flood Management Project)

Article 5 PLANNING, CONSTRUCTION, OPERATION AND MAINTENANCE OF PROJECT.

§5.01 *Facilities, and Capital Improvement Plans.*

¶5.01.A The Board shall prepare and from time to time update Facilities Plans describing the proposed Flood Management Facilities for the entire Truckee River Flood Management Project.

¶5.01.B The Board shall, in conjunction with the USACE, establish the overall order of construction of the Flood Management Facilities, and shall develop a running list of construction projects to be accomplished over the next ten years. The list is for planning purposes only and does not constitute an obligation of the Board, or any future Board, or an express or implied appropriation of funds.

¶5.01.C Each fiscal year, the Board shall prepare, update and submit a plan for capital improvement for the ensuing 5 fiscal years as required by NRS 354.5945. The Capital Improvement Plan shall be approved by the Board as provided in ¶3.05.B of this Agreement, and is binding on the Board until amended.

§5.02 *Project Partnership Agreement; TRAction Projects.*

¶5.02.A PPA.

1. Upon project authorization by the United States Congress, the Authority may enter into a Project Partnership Agreement (**PPA**) with USACE establishing the rights and responsibilities of the Authority (as a non-federal sponsor) and the USACE with respect to the design, financing, construction, operation and maintenance of the Truckee River Flood Management Project.

2. Each Member agrees that the PPA is binding on the Member and not to take any action that would cause a violation of the PPA.

¶5.02.B TRAction Projects.

The Authority may from time to time pursue “TRAction” (Truckee River Action) projects to be commenced prior to the PPA. As it pursues TRAction Projects, the Authority shall (i) obtain, if appropriate, determinations from USACE that a portion of the cost of the project could be credited against the Authority’s “non-federal sponsor cost

share” of the project if a PPA is entered into, and (ii) enter into appropriate design, financing, and construction contracts.

§5.03 *Design and Construction Standards; Additional Features or Specifications by Members.*

¶5.03.A All Flood Management Facilities shall be designed or approved by USACE, and except as provided next below, all Facilities shall be constructed in accordance with the approved design and construction specifications. Construction contracts entered into by the Authority or any Member shall incorporate such requirements.

¶5.03.B If a Member desires to alter the design or add to or alter a Flood Management Facility within its boundaries in order to construct an additional feature (including a recreational facility), or implement a specification or construction standard that adds to or exceeds the design or specifications approved under ¶5.03.A, the Member shall petition to the Board, and the Board shall not unreasonably withhold approval, provided that (i) the Board determines that the new feature, specification or standard does not conflict with the full implementation of the approved design, features, specifications and construction standards, and does not impair the level of protection afforded by the Flood Management Facility as originally designed; and (ii) an agreement is entered into regarding the payment of expenses and costs, the operation and maintenance of the Flood Management Facility in light of the new design, feature, specification or standard, and appropriate indemnifications to the Authority by the Member.

§5.04 *Acquisition of Property; Payment of Relocation Obligations.*

Unless otherwise agreed in a TRAction or other agreement, the Authority shall acquire all required land, easements, rights of way, and disposal sites and shall pay all relocation expenses as required by state and federal law.

§5.05 *Construction of Facilities*

¶5.05.A Before soliciting bids or entering into any agreement for the construction of a Flood Management Facility, the Board shall first determine who will own, operate and maintain the Flood Management Facility, and if someone other than the Authority will own, operate or maintain the Flood Management Facility, the Board shall enter into an agreement with that party to the Board’s satisfaction.

¶5.05.B If a PPA is entered into, all Flood Management Projects will be constructed by USACE, except (i) when otherwise agreed with USACE; (ii) when the Board determines that it does not intend to pursue any funding or cost sharing from USACE; or (iii) TRAction Projects.

¶5.05.C With respect to TRAction Projects, unless otherwise agreed, the Authority shall solicit bids or proposals for the design and construction of Flood Management

Projects and enter into and administer construction contracts. The Board may enter into construction management contracts with a Member or third party.

§5.06 *Ownership of Facilities and Property Interests; Disposition*

¶5.06.A The Authority shall own all Flood Management Facilities and all property interests acquired, except pursuant to an agreement approved under ¶5.05.B or as otherwise approved by the Board on a case by case basis.

¶5.06.B Title to recreational equipment and facilities placed on Flood Management Facilities may be vested in any entity or entities that fund and maintain them, provided that proper use and indemnification agreements are entered into.

¶5.06.C If the Authority conveys Flood Management Facility property to a Member, the deed shall contain a reversionary interest to the Authority which provides that if the grantee fails to operate and maintain the Facility or property interest as a Flood Management Facility consistent with the reasonable directives of the Board and the requirements of this Agreement, legal title to the property shall revert to the Authority.

¶5.06.D Disposal of Facilities and Property Interests.

1. Real Property. If the Board determines that an interest in real property held by the Authority is no longer needed for the Truckee River Flood Management Project, the Board shall dispose of the fee title the same way that a board of county commissioners is required under NRS 244.279 through 244.290.

2. Fixtures and Personal Property.

a. Fixtures. Unless otherwise provided by resolution of the Board, fixtures shall be transferred with the real property to which they are affixed.

b. Transfer of personal property to Member. As determined by the Board, personal property may be transferred to any Member without consideration.

c. Donation of Personal Property. The Board may, by resolution, donate commodities, supplies, materials and equipment that the Board determines to have reached the end of their useful lives to any other governmental entity, or to a nonprofit organization created for religious, charitable or educational purposes to be used for any purpose which will provide a substantial benefit to the inhabitants of the Members, *provided that* the Board follows the procedures and observes the limitations in NRS 244.1505, as amended.

d. Sale of Personal Property. The Board or its designee may dispose of personal property in accordance with NRS 332.185.

§5.07 *Operation and Maintenance of Facilities, Emergency Powers of Members*

¶5.07.A Except as provided in ¶5.07.E, the Authority shall have exclusive control and responsibility over the operation and maintenance of Flood Management Facilities as follows.

¶5.07.B The Executive Director shall prepare and keep current written inspection and maintenance plans for each Flood Management Facility.

¶5.07.C The Authority shall be responsible for scheduling and conducting periodic inspections and causing maintenance and repairs to be made in accordance with the inspection and maintenance plans and best management practices for such facilities.

¶5.07.D The Authority shall be the exclusive agency to respond to inquiries and maintenance instructions by the USACE pursuant to the PPA and USACE regulations. If a Member has agreed to be responsible for the operations and maintenance of a Facility, the Member shall comply with the instructions of the Authority in response to such inquiries or instructions by the USACE, provided that funding is provided by the Authority.

¶5.07.E If a Member desires to operate and maintain a Flood Management Facility within its boundaries, the Authority shall enter into a contract with the Member to perform operational, maintenance and repair services to be paid for by the Authority on terms satisfactory to the Board. Unless otherwise specifically agreed in writing, the Member shall follow all operational, maintenance and repair standards and policies established by the Board. The Board will grant a non-exclusive easement to the Member which is subject to termination at the discretion of the Board if a term of the agreement or this provision is violated.

¶5.07.F The Authority may enter into agreements with third parties to perform operational, maintenance and repair services. Unless otherwise specifically agreed in writing, the contractor shall follow all operational, maintenance and repair standards, directives and policies established by the Board either before or after the agreement is entered into. The Board will grant a non-exclusive easement to the contractor which is subject to termination at the discretion of the Board if a term of the agreement or this provision is violated.

¶5.07.G Notwithstanding ownership of the Flood Management Facility, or any provision in this Agreement to the contrary, each Member reserves to itself its emergency powers to deal with Flood Management Facilities during a natural disaster in a manner consistent with the Member's public safety responsibilities. Such powers reserved include, but are not limited to, the power to take temporary possession of or exclude any person from access to the Flood Management Facility, and adding to or altering the Flood Management Facility to reduce imminent threats to public safety and property damage.

§5.08 *Repair and Replacement*

¶5.08 The Authority shall provide for the repair and replacement of all Flood Management Facilities it owns, including:

1. Establishing reserves under §6.06 of this Agreement.
2. Providing property insurance or otherwise providing for repairs and replacements due to catastrophic casualties as provided in §6.06 of this Agreement.

§5.09 *Early Warning System.*

¶5.09.A The Early Warning System is a system composed of a series of stream and precipitation gauges, transmission equipment, computer data collection and distribution system, and equipment and software to transform the data into useable information for regional emergency flood response. In 1999, the system was significantly upgraded under an agreement between USACE and Washoe County Department of Water Resources as the “non-federal sponsor.” In July of 2010, County, on behalf of the Truckee River Flood Management Project, assumed full operational and maintenance responsibility for the system and then entered into an agreement with the United States Geological Service to share the operations and maintenance costs of the warning system.

¶5.09.B Washoe County, the City of Reno, and the City of Sparks shall terminate all agreements relating to the Early Warning System.

¶5.09.C The Authority shall communicate information with the Members in accordance with a procedure to be established by agreement between the city/county managers of the Members, and other applicable entities and the Executive Director.

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INTERLOCAL COOPERATIVE AGREEMENT
(Truckee River Flood Management Project)

Article 6 REVENUES AND FINANCING OF PROJECT

§6.01 Fees, Rates and Charges.

¶6.01.A Functions Conferred; Powers Delegated; Agreements not to Impair Powers.

1. Functions conferred.

a. County, Reno, and Sparks hereby confer, delegate and agree that in order to acquire, improve, equip, operate and maintain a Flood Management Project and to ensure the payment, in whole or in part, of obligations of the Authority under Debt Instruments, financing agreements, for a Flood Management Project, the Board may establish, maintain and, from time to time, revise a schedule or schedules of fees, rates and charges for services or facilities, or both services or facilities rendered by or through the Flood Management Project in an amount sufficient for the foregoing purposes and also sufficient to discharge any covenant in the proceedings of the Board authorizing the issuance of any such Debt Instruments or financing agreements, including any covenant for the establishment of reasonable reserve funds.

b. The Authority may use and irrevocably pledge the revenues of such fees, rates, and charges (“**Fee Revenues**”) as permitted by SB 175.

c. The County, Reno and Sparks agree that the Authority is a “flood management authority” as defined in NRS 244A.0297 and NRS 350A.055, and non-exclusively delegate to the Authority each of the powers of the parties to issue Debt Instruments for the purpose of a “flood management project” as defined in NRS 244A.0297 and 268.691, in the manner provided in Chapter 350 of NRS.

2. Delegations and Nonimpairment Agreements by County. Subject to possible termination under §3.09 and §3.10, Washoe County irrevocably delegates to the Authority the powers and rights of the County under state law now existing or after acquired which are necessary and incidental to accomplish the function conferred under this Article 6. The County covenants that the powers delegated hereunder and the Fee Revenues shall not be repealed, amended, or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding Debt Instruments or other obligations of the Authority (including obligations undertaken to operate and maintain the Flood Management Project) secured by such Fee Revenues until all such Debt Instruments and obligations have been discharged in full or provision for their payment and redemption has been fully made, including without limitation the known minimum

yield from the investment or reinvestment of moneys pledged therefor in federal securities.

3. Delegations and Nonimpairment Agreements by Reno. Subject to possible termination under §3.09 or §3.10, Reno irrevocably delegates to the Authority the powers and rights of Reno now existing or after acquired under state law and including lien rights granted to Reno which are necessary and incidental to accomplish the function conferred under this Article 6. Reno covenants that the powers delegated and the Fee Revenues shall not be repealed, amended, or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding Debt Instruments or other obligations of the Authority (including obligations undertaken to operate and maintain the Flood Management Facilities) secured by such revenues until all such Debt Instruments and obligations have been discharged in full or provision for their payment and redemption has been fully made, including without limitation the known minimum yield from the investment or reinvestment of moneys pledged therefor in federal securities.

4. Delegations and Nonimpairment Agreements by Sparks. Subject to possible termination under §3.09 or §3.10, Sparks irrevocably delegates to the Authority the powers and rights of Sparks now existing or after acquired under state law and including lien rights granted to Sparks which are necessary and incidental to accomplish the function conferred under this Article 6. Sparks covenants that the powers delegated and the Fee Revenues shall not be repealed, amended, or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding Debt Instruments or other obligations of the Authority (including obligations undertaken to operate and maintain the Flood Management Facilities) secured by such revenues until all such Debt Instruments and obligations have been discharged in full or provision for their payment and redemption has been fully made, including without limitation the known minimum yield from the investment or reinvestment of moneys pledged therefor in federal securities.

¶6.01.B The Authority shall hold public hearings and impose such fees, rates, and charges in accordance with Nevada law, and shall obtain judicial confirmation in accordance with NRS Chapter 43.

¶6.01.C The resolution imposing such fees, rates and charges shall provide for the method and manner of collection and enforcement (including lien foreclosure to the extent applicable).

¶6.01.D The indemnifications contained in ¶7.02.B apply to all actions taken by the Authority in imposing and collecting such fees, rates, and charges.

¶6.01.E The Authority is responsible for overseeing of the collection of all fees, rates and charges that comprise Fee Revenues. If a Member is involved in such collection process, such activity will be handled pursuant to a third-party administrative contract.

§6.02 *Infrastructure Tax.*

¶6.02.A The Infrastructure Tax is collected by the State of Nevada Department of Taxation and remitted to the County pursuant to procedures established in NRS Chapter 377B and an agreement between the County and the Nevada Department of Taxation. Washoe County has issued bonds and other debt instruments secured by the Infrastructure Tax for other projects (a public safety training center and a regional dispatch center), pledging the Infrastructure Tax as security for their repayment. Also under NRS Chapter 377B, the County and its Board of County Commissioners is responsible for proper administration of the tax and its proceeds, which responsibility cannot be completely delegated to another entity. Accordingly, the following provisions shall apply to the Infrastructure Tax.

¶6.02.B Collection and Accounting; Establishment of Truckee River Flood Management Infrastructure Fund Flood Project Net Revenues .

1. County shall continue to receive and account for the net proceeds of the Infrastructure Tax pursuant to state law and its agreement with the Department of Taxation, and shall deposit such net proceeds into the Truckee River Flood Management Infrastructure Fund as required by NRS 377B.150. The Truckee River Flood Management Infrastructure Fund shall remain under the exclusive control of the County as required by law.

2. Truckee River Flood Management Infrastructure Fund Flood Project Net Revenues (as defined in Article 1 of this Agreement) shall be transferred monthly within five business days after receipt of proceeds of the Infrastructure Tax from the State of Nevada.

¶6.02.C Infrastructure Tax Plan

1. As required by NRS 377.100 (6) Washoe County has adopted and amended the Infrastructure Tax Plan, and under NRS 377B.160 (2) the Infrastructure Tax may only be expended by the Board of County Commissioners for specific projects as defined in the statute, and pursuant to the Infrastructure Tax Plan. The second amendment to the Infrastructure Tax Plan provides that powers to amend the plan with respect to the Truckee River Flood Management Project may be delegated to a Flood Management Authority created under NRS Chapter 277 to govern a Flood Management Project.

2. To the extent permitted by law, and subject to the provisions of ¶6.02.E below, the Board of County Commissioners hereby delegates to the Board the following powers, and agrees as follows:

a. The Board may from time to time amend the following provisions of the Infrastructure Tax Plan for the Truckee River Flood Management Project:

- i. “Cost of Truckee River Flood Management Project” (presently appearing in §A1.6 of the Second Amendment to the Plan);
- ii. Financing Plan for the Truckee River Flood Management Project (presently appearing in §A1.7 of the Second Amendment to the Plan); and
- iii. Expenditure List for the Truckee River Flood Management Project (Presently appearing in Appendix C to the Second Amendment to the Plan).

b. All such amendments shall recite to the delegation hereunder and shall be sent to the County Clerk so that they may be attached to the overall Infrastructure Tax Plan. All other changes or amendments to the Infrastructure Tax Plan must be approved by the Board of County Commissioners.

¶6.02.D Pledge of Truckee River Flood Management Infrastructure Fund Flood Project Net Revenues; Covenant not to Impair Funds.

1. County hereby irrevocably pledges and agrees to pay to the Authority the Truckee River Flood Management Infrastructure Fund Flood Project Net Revenues for its use under this Agreement. This pledge constitutes a lien against the Truckee River Flood Management Infrastructure Fund Flood Project Net Revenues under NRS 377B.200.

2. The Board shall have the sole and exclusive power to pledge the Truckee River Flood Management Infrastructure Fund Flood Project Net Revenues to the repayment of Debt Instruments or other obligations of the Authority, or to pay the Authority’s operating and maintenance expenses.

3. If requested by the Authority in connection with a Debt Instrument, County agrees to provide any document or take any action to affirm or ratify the pledge of Truckee River Flood Management Infrastructure Fund Flood Project Net Revenues.

4. County hereby covenants that the Truckee River Flood Management Infrastructure Fund Flood Project Net Revenues shall not be repealed, amended, or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding Debt Instruments or other obligations of the Authority (including obligations undertaken to operate and maintain the Flood Management Facilities) secured by such revenues until all such Debt Instruments and obligations have been discharged in full or provision for their payment and redemption has been fully made, including without limitation the known minimum yield from the investment or reinvestment of moneys pledged therefor in federal securities.

5. The County hereby agrees not to allow the Infrastructure Tax Plan to expire with respect to the Truckee River Flood Management Infrastructure Fund Flood Project Net Revenues unless and until the pledge hereunder is released or terminated by the Authority.

6. Consistent with foregoing pledges and covenants, County understands and agrees that funding from the Infrastructure Tax may only be used to pay County obligations identified in the definition of “Truckee River Flood Management Infrastructure Fund Flood Project Net Revenues” and then only for the Truckee River Flood Management Project.

¶6.02.E Limitations and consent provisions.

1. The delegations and provisions of this section 6.02 are subject to and enforceable only to the extent permitted by law.

2. If it is determined that any provision in this section 6.02 is not authorized by law, then the parties agree to amend this Agreement to bring it within the limits of enforceability while preserving the intentions of the parties under this Agreement.

3. To the extent that an amendment to this Agreement cannot be reached or to the extent that an action or matter with respect to the Infrastructure Tax or Truckee River Flood Management Infrastructure Fund must be acted upon by the County, such action or matter shall be referred to the County, and the County agrees to act on such a referral within 60 days from the referral, and not to unreasonably withhold approval, provided, however, that the County board of county commissioners may withhold approval if it reasonably believes:

- i. That the proposed action conflicts with the Infrastructure Tax Plan, the Infrastructure Tax Ordinance, or with the requirements of NRS Chapter 377B or applicable law;
- ii. That the proposed action would impair any outstanding bonds or obligations of the County secured in whole or in part by the Truckee River Flood Management Infrastructure Fund;
- iii. That the matter will conflict with any State statute, or County Ordinance in effect as of the date the County’s consent is requested.

¶6.02.F Statutory Enforcement Powers.

1. As the County remains primarily responsible under NRS Chapter 377B for the proper administration and application of the Infrastructure Tax, if the County believes that the Authority is taking an action that conflicts with the provisions of NRS Chapter 377B or other statute applicable to the Infrastructure Tax, the County may bring an action for relief which may include the payment of monetary damages or injunctive relief.

2. Before commencing an action under ¶6.02.F.1, County staff shall first inform the Authority of the suspect action, how it is believed to violate applicable law, and how the action may be amended to bring it within compliance with applicable law. The Authority shall be given 60 days to take corrective action.

¶6.02.G The indemnifications in ¶7.02.B apply to all actions taken by the Authority with respect to the Infrastructure Tax.

§6.03 Other Revenues

¶6.03.A The Authority may apply for and may receive loans, grants, cost sharing arrangements, as a part of the conferred function in ¶6.01.A

§6.04 Expenditure of Gross Revenues

The Authority may use and pledge Gross Revenues for, and only for, the Truckee River Flood Management Project, expenses of the Authority, as provided in this Agreement, and in accordance with the laws and agreements governing such revenues.

§6.05 Financing Flood Management Facilities.

Under NRS 277.0705 through 277.0755 as now existing and as amended from time to time, to finance the acquisition, improvement, equipping, operation and maintenance of the Truckee River Flood Management Project, the Authority may borrow money and issue one or more Debt Instruments and in the manner provided by NRS Chapter 350, and may pledge Gross Revenues for the repayment, *provided however* that all obligations of the Authority are independent from and no Debt Instrument or financing agreement shall obligate or encumber any funds or assets of any Member.

§6.06 Establishment of Accounts; required coverages and reserves

¶6.06.A. General Fund – Gross Revenues shall be collected by the Authority and placed in the Authority's General Fund.

¶6.06.B Coverage.

1. Rate Maintenance. The Authority shall maintain fees, rates and charges such that the sum of all of the Gross Revenues it receives in each fiscal year that are pledged to or to be used to pay amounts due under its Debt Instruments (except capitalized interest) are sufficient to annually produce (i) an amount sufficient to pay all operation and maintenance expenses of the Authority during the fiscal year not paid with other sources plus (ii) an amount sufficient to pay 120% of the amounts due on all Debt Instruments in that fiscal year.

2. Limit on Debt. The Authority shall not incur or enter into any Debt Instruments unless at the time of the incurrence or execution of such Debt Instruments, the Authority's projected annual Gross Revenues available (after payment of operation and maintenance expenses of the Authority) to pay debt service under all Debt Instruments in each of the five fiscal years after any fiscal year for which all or a part of the interest on Debt Instrument is capitalized are not less than 120% of the amounts required to pay debt service under all Debt Instruments for each of these five fiscal years.

3. The foregoing requirements shall be in addition to any requirements in any Debt Instrument.

¶6.06.C Funds; Use of Monies

1. The three following funds shall be created, funded and administered by the Authority to facilitate the ongoing operation of the Truckee River Flood Management Project as follows.

- i. General Fund A general fund shall be created and all Gross Revenues shall first be placed in it. After payment of operation and maintenance expenses and all requirements of any Debt Instruments in each fiscal year, monies in the General Fund shall be applied as to the following funds, and any remainder after payment of operation and maintenance expenses, debt service and the deposits required below shall remain in the General Fund, and can be used for any lawful purpose, subject to the limitation in §6.04, in that fiscal year.
- ii. Reserve for Replacement: shall be created to cover repairs necessary for the ongoing operations of the Flood Project that have not been budgeted. Over a period of five years from the implementation of the fees, rates and charges described in §6.01 of this Agreement, this reserve shall be funded to an amount equal to ten per cent of the replacement cost of the uninsured capital structures that comprise the Flood Management Facilities and after that initial funding, the reserve shall remain at that level, subject to the curative period set out in subparagraph 6.06.C.iv below, unless a higher funding requirement or maximum reserve is provided for in the PPA, a Debt Instrument, a financing agreement or otherwise as approved by the Board as provided in ¶3.05.B of this Agreement.
- iii. Operating Reserve: shall be established in order to protect the Authority from unexpected increases in operating costs and unanticipated reductions in operating revenues. This Fund shall be used together with other available monies to fund the operations of the Flood Project until rates, fees and charges can be reapplied and collected. Over a period of three years from the date that the fees, rates and charges are implemented under §6.01 of this Agreement, this reserve shall be funded to equal 25% of each year's operating budget of the Truckee River Flood Management Project and after that initial funding the reserve shall be maintained at that level, subject to the curative period set

forth in subparagraph 6.06.C.iv below unless a higher funding amount or maximum reserve is provided for in the PPA, a Debt Instrument, a financing agreement or otherwise approved by the Board as provided in ¶3.05.B of this Agreement.

- iv. Curative Period. If, after the initial funding as provided above, the Reserve for Replacement or Operating Reserve falls below the requirements stated above, the Authority shall have a period of three years to bring the reserve balance up to the required reserve amount, unless a shorter curative period is specified in the PPA, a Debt Instrument, a financing agreement or otherwise approved by the Board as provided in ¶3.05.B of this Agreement.

¶6.06.D. Other Funds and Accounts

Other funds and accounts shall be created and funded by the Authority as necessary to facilitate the operations of the Truckee River Flood Management Project and to assist in the structuring of cost effective Debt Instruments incurred by the Authority for the development of the Truckee River Flood Management Project.

§6.07 *Impairment of Gross Revenues or Debt Instruments.*

¶6.07.A If a court of competent jurisdiction invalidates, impairs or determines that the imposition and collection of Gross Revenues or the issuance and repayment of any Debt Instrument is contrary to public policy as a result of or which may be remedied by a change to any provision in this Agreement (including the delegation of powers), the parties shall amend this Agreement to bring the imposition and collection of Gross Revenues and the issuance and payment of Debt Instruments within the limits of validity and public policy.

¶6.07.B If a court of competent jurisdiction determines that the action or inaction of a Member impairs or leads to the invalidation of the imposition and collection of Gross Revenues or the issuance and repayment of a Debt Instrument, the Member shall take corrective action to cause the validity of the imposition and collection of Gross Revenues or the issuance and repayment of a Debt Instrument, or shall assume liability under any impaired Debt Instrument to the extent the impairment is caused by such uncorrected action or inaction.

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INTERLOCAL COOPERATIVE AGREEMENT
(Truckee River Flood Management Project)

Article 7 INSURANCE AND INDEMNIFICATIONS

§7.01 Insurance

The Authority shall obtain and maintain (i) comprehensive general liability insurance, (ii) property damage insurance for all Flood Management Facilities it owns, (iii) industrial insurance for all employees of the Authority not otherwise covered, (iii) automobile insurance, (iv) fidelity bonds for employees, and (iv) Director and Officer insurance to indemnify Directors, Officers and Employees against liability arising from conduct within the scope of work or authority.

Each Member shall be an additional insured on general liability policies, director and Officer Insurance, and on any property damage policies where the Member holds a property interest in a Flood Management Facility.

§7.02 Indemnifications.

¶7.02.A Definitions.

“Act, error or omission” includes acts, failure to act, errors, or omissions that constitute negligence, willful tortious conduct, or for which strict or imputed liability may be imposed as determined by a court of competent jurisdiction under applicable law, and further includes breaches of this agreement and/or violations of law.

“Arising out of the administration of this Agreement” means the performance of any task, obligation, responsibility or the pursuit of any right contemplated under this Agreement.

“Claims and liability” means all third party claims, actions, damages, losses, judgments, injuries, costs and expenses, (including those paid to settle the case) including but not limited to attorneys’ fees and costs, including those related to bodily injury, sickness, disease or death or to injury to or destruction of tangible property (including the loss of use resulting therefrom) and other economic damages.

“Defend” includes the obligation to defend litigation at the indemnifying party’s sole expense using counsel that is reasonably acceptable to the indemnified party. Each indemnified party shall be permitted to participate at its own expense, if it chooses, in the defense of any action claiming liability, even if the indemnified party is indemnified hereunder.

“Related Party” includes all officers, employees, agents, contractors and subcontractors of the party who are acting within the scope of their assigned and lawful

duties, as well as anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

¶7.02.B By Members.

To the fullest extent allowed by law, and without waiving any immunities (except as provided under the law of Nevada, including NRS 41.0305 through NRS 41.039, as amended from time to time), each Member shall indemnify, hold harmless and defend the indemnified parties from and against all liability arising out of the administration of this Agreement to the extent such liability is caused by an act, error or omission of the Member or a Related Party. "Indemnified parties" means each other Member and the Authority and their Related Parties.

¶7.02.C. By Authority

1. To the fullest extent allowed by law, the Authority shall indemnify, hold harmless and defend the indemnified parties from and against all liability:

a. for damages to property or injuries to persons caused by any one or combination of the following:

- i. the ownership, maintenance or use of land and the location, design and construction of Flood Management Facilities owned by the Authority;
- ii. the failure of a Flood Management Facility that is owned by the Authority;
- iii. the condition of the Flood Management Facilities owned by the Authority; and
- iv. an act, error or omission of the Authority or a Related Party in the administration of this Agreement.

b. arising from actions by the Authority that are determined by a court of competent jurisdiction to constitute a taking of property by the Authority without just compensation.

2. "Indemnified parties" means all Members and their Related Parties.

¶7.02.D Limitations and Conditions.

1. The parties stipulate that principles of comparative negligence as those principles are currently expressed in Nevada law should be applied in allocating or limiting liability under this Article of the Agreement.

2. The obligations of each indemnifying party hereunder shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which

would otherwise exist as to any party or person described in this section. The indemnification shall not be diminished or limited in any way to the total limits of insurance required in this contract or otherwise available to the indemnifying party.

3. The Authority and all Members are considered as “joint employers” for any employee who performs services related to the Truckee River Flood Management Project. If liability is asserted by an employee of a party to this agreement, the indemnification herein is limited to damages, compensation or benefits payable by or for the indemnifying party under worker’s compensation acts, disability benefit acts or other employee benefit acts.

4. Each indemnified party shall be permitted to participate, if it chooses, in the defense of any action claiming liability, even if the indemnified party is indemnified hereunder.

5. Any party may set off any of its rights established by settlement or judgment under this subsection against any consideration it provides under this agreement.

6. The obligations to indemnify and save harmless herein survive the withdrawal of a Member, or the expiration or termination of this Agreement with respect to any act, error or omission which occurred before the withdrawal, expiration or early termination.

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INTERLOCAL COOPERATIVE AGREEMENT
(Truckee River Flood Management Project)

Article 8 RIGHTS AND OBLIGATIONS OF WASHOE COUNTY

§8.01 *Conveyance of property.*

¶8.01.A Conveyance or offer within 90 days.

1. Property acquired with proceeds of Truckee River Flood Management Infrastructure Fund. Within 90 days from being requested in writing by the Authority, Washoe County shall deliver possession of and convey title to all real property, personal property, contract rights, and cash or fund balances acquired by the County from proceeds of the Truckee River Flood Management Infrastructure Fund for the benefit of the Truckee River Flood Management Project or pursuant to its administrative duties under the 2005 Cooperative Agreement, and all books, records and documents generated or kept by the County relating to the administration of the flood project, all as provided in this Section. The County shall convey said property without consideration or cost.

2. Property acquired with other funds. Within 90 days from being requested in writing by the Authority, Washoe County shall identify all real property, personal property, contract rights, and cash or fund balances acquired by the County from general funds or other funds of the County for the benefit of the Truckee River Flood Management Project.

3. In accordance with applicable statutes, County may convey to the Authority any property the County owns that is needed for the Truckee River Flood Management Project under the following terms and conditions:

 a. The County may convey the minimum estate (e.g. easement or fee title) necessary under USACE regulations.

 b. The County may convey the minimum estate without consideration or for consideration below its market value under NRS 277.053, or for its appraised value under NRS 277.050.

 c. All acquisition and relocation costs shall be paid by the Authority.

¶8.01.B Real Property.

1. Unless otherwise agreed, conveyance of real property shall be by grant, bargain and sale deed with the same description as appears on the deed to the County.

Transfer of water rights must be accompanied by a report of conveyance sufficient for recording with the State Engineer.

2. Property acquired by the County by bill of sale shall be conveyed with a bill of sale.

3. The cost of recording documents and obtaining title insurance shall be paid by the Authority.

4. County shall deliver to the Authority all files and documents relating to the acquisition of the properties conveyed under this paragraph, including, but not limited to, all appraisals, title reports and due diligence documents, purchase contracts, escrow instructions and records relating to the relocation of owners and tenants.

5. As properties were acquired and managed under the control of the same employees who will work for the Authority, the County conveys all property AS IS WHERE IS with all its faults and without any warranty except the warranties that run with a grant, bargain and sale deed.

¶8.01.C Personal Property.

1. Personal Property shall be delivered to the Authority together with a bill of sale or other document that effectively conveys title to the Authority.

2. County shall deliver all documents and files relating to the acquisition and management of such personal property, including instruction manuals, warranties and service or repair records.

3. The cost of transferring title shall be paid by the Authority.

4. Except for warranty of title, the County makes no representations or warranties regarding the condition or utility of any property conveyed hereunder.

¶8.01.D Contracts

1. Washoe County shall deliver all contracts it entered into for the benefit of the Truckee River Flood Management Project together with a validly executed assignment. The following provisions apply to each contract delivered and assigned.

2. If requested, County shall provide an estoppel certificate or other document indicating whether or not there is a breach, default, or dispute as to the performance of the contract by any party and to what extent payment or future performance is due.

3. The Authority shall be responsible for obtaining acknowledgement of the assignment of the contract and a novation, discharge or release from the counterparty

discharging the County from any further obligations under the contract. If the contract is for the purchase or sale of goods, and counterparty will not consummate the sale or purchase under the original terms, the County shall complete the contract with funds being provided to or by the Authority. Otherwise, if a counterparty will not release or discharge the County, the Authority shall terminate the contract.

4. The County shall provide copies of all files and documents relating to the formation and performance of the contract.

¶8.01.E Funds

The County shall pay to the Authority the Truckee River Flood Management Infrastructure Fund Flood Project Net Proceeds and any funds held by the County for the benefit of the Truckee River Flood Management Project existing at the time of the request.

¶8.01.F Books, Records, Documents.

As requested from time to time by the Authority, the County shall make available for inspection and copying by the Authority all books, records and documents generated by the County in its administrative role under the 2005 Cooperative Agreement. This obligation shall survive the termination of this Agreement with respect to books, records and documents generated prior to the date that the Authority becomes duly organized and begins keeping its own books and records.

§8.02 *County Employees*

¶8.02.A The Authority and County may enter into a written agreement with respect to County employees working for the Authority. If such an agreement is entered into, the provisions of ¶8.02.B and ¶8.02.C, and ¶8.02.E shall be automatically terminated without requiring an amendment to this Agreement. Pending such an agreement, the provisions of ¶8.02.B and ¶8.02.C and ¶8.02.E shall be binding on the Authority and the County.

¶8.02.B Status of Executive Director.

County agrees that at the pleasure of the Authority, the Executive Director shall be administratively attached to the Washoe County Manager's Office for purposes of payroll and benefits, shall be accorded health and retirement benefits, but otherwise is not an agent of, under the control of, and owes no duties or loyalty to the County except as provided herein or in a written agreement between the Board and the County.

¶8.02.C Employees. Washoe County hereby agrees:

1. That all existing County employees who go to work for the Authority shall remain as County employees without any interruption in salary, seniority, benefits or rights under any collective bargaining agreements applicable to them.

2. That new employees who work for the Authority shall also be hired as County employees.

3. That with respect to employees of Washoe County:

a. The Board shall approve job descriptions and submit them to the County for inclusion in the County's job evaluation, salary administration and collective bargaining systems under the discretion and control of the Board of County Commissioners, who shall promptly act on the job descriptions.

b. Employees are subject to all of the ordinances, regulations, rules, policies and collective bargaining agreements and enjoy all the benefits, transfer and seniority rights as all other county employees as if the Authority were a department of Washoe County.

c. Employees of the Authority are not agents of and have no authority to bind the County.

d. The Executive Director shall have powers and responsibilities equal to those of a department head of Washoe County with respect to all aspects of employment. All actions of the Board and the Executive Director shall be governed by and subject to the County's ordinances, regulations, policies, procedures and collective bargaining agreements.

e. The County shall provide industrial insurance as required by Nevada law.

f. The Authority shall provide for fidelity bond coverage and shall have employees included in its general liability, property, and auto insurance coverages.

g. The indemnifications contained in ¶ 7.02.B (Washoe County indemnifies the Authority) and ¶7.02.C (the Authority indemnifies Washoe County) include acts, errors or omissions of the indemnifying party in the performance of employment activities.

¶8.02.C The Authority shall reimburse County for all payroll, benefits and costs of administering this section plus an administrative fee to be agreed upon in a written agreement, but in absence of such an agreement, the administrative fee shall be a rate established by County but not to exceed 5% of the monthly amount remitted.

§8.03 *Delegation of Powers*

County agrees and acknowledges that action by the Board, as described in this Agreement, is all that is required for the Authority to exercise the functions conferred and powers delegated in §3.02 of this Agreement, and that approval by the Board of County Commissioners is not required for the completion or exercise of any such function or power.

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INTERLOCAL COOPERATIVE AGREEMENT
(Truckee River Flood Management Project)

Article 9 RIGHTS AND OBLIGATIONS OF CITY OF RENO

§9.01 Conveyance of Property Needed for Flood Project

¶9.01.A In accordance with applicable statutes, Reno may convey to the Authority any property Reno owns that is needed for the Truckee River Flood Management Project under the following terms and conditions:

1. Reno may convey the minimum estate (e.g. easement or fee title) necessary.
2. Reno may convey the minimum estate without consideration or for consideration below its market value under NRS 277.053, or for its appraised value under NRS 277.050.
- 3 All acquisition and relocation costs shall be paid by the Authority.

§9.02 Contracts with Washoe County

Reno has entered into agreements with Washoe County for TRAction projects or otherwise with respect to the Truckee River Flood Management Project. Reno hereby consents to the assignment of all such contracts to the Authority and agrees to a novation of all such contracts substituting the Authority for Washoe County.

§9.03 NPDES Interlocal Agreement Not Superseded.

The creation of the Authority does not in any way supersede prior agreements and/or obligations of the duties and responsibilities of Reno, Sparks and Washoe related to the National Pollutant Discharge Elimination System (NPDES) Permit or the amended interlocal agreement with Reno, Sparks and Washoe dated June 22, 2004 to manage the NPDES Permit and the watershed with regard to water quality. The Authority will obtain input from the Stormwater Permit Coordinating Committee with regard to a flood management facilities plans' affect on water quality.

§9.04 TMWRF Agreement not superseded

The creation of the Authority does not in any way supersede prior agreements and/or obligations of Reno and Sparks or permits associated therewith regarding the Truckee Meadows Water Reclamation Facility.

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INTERLOCAL COOPERATIVE AGREEMENT
(Truckee River Flood Management Project)

Article 10 RIGHTS AND OBLIGATIONS OF CITY OF SPARKS

§10.01 Conveyance of Property needed for Flood Project

¶10.01.A In accordance with applicable statutes, Sparks may convey to the Authority any property Sparks owns that is needed for the Truckee River Flood Management Project under the following terms and conditions:

1. Sparks may convey the minimum estate (e.g. easement or fee title) necessary under USACE regulations.
2. Sparks may convey the minimum estate without consideration or for consideration below its market value under NRS 277.053, or for its appraised value under NRS 277.050.
- 3 All acquisition and relocation costs shall be paid by the Authority.

§10.02 Contracts with Washoe County

Sparks has entered into agreements with Washoe County for TRAction projects or otherwise with respect to the Truckee River Flood Management Project. Sparks hereby consents to the assignment of all such contracts to the Authority and agrees to a novation of all such contracts substituting the Authority for Washoe County.

§10.03 NPDES Interlocal Agreement Not Superseded.

The creation of the Authority does not in any way supersede prior agreements and/or obligations of the duties and responsibilities of Reno, Sparks and Washoe related to the National Pollutant Discharge Elimination System (NPDES) Permit or the amended interlocal agreement with Reno, Sparks and Washoe dated June 22, 2004 to manage the NPDES Permit and the watershed with regard to water quality. The Authority will obtain input from the Stormwater Permit Coordinating Committee with regard to a flood management facilities plans' affect on water quality.

§10.04 TMWRF Agreement not superseded

The creation of the Authority does not in any way supersede prior agreements and/or obligations of Reno and Sparks or permits associated therewith regarding the Truckee Meadows Water Reclamation Facility.

§10.05 *Rescission of River Flood Protection Rates; Construction and operation of the North Truckee Drain Project.*

¶10.05.A Definitions. For purposes of this section 10.05, the following words have the following meanings:

North Truckee Drain Relocation Project (“NTD Project”) means a project to relocate the terminus of the North Truckee Drain in Sparks, Nevada, from its existing confluence with the Truckee River near the Truckee Meadows Water Reclamation Facility (TMWRF) to a point approximately 4,500 feet downstream where the river is adjacent to the railroad tracks and enters the East Truckee River Canyon. For purposes of this agreement, the project includes construction of conveyance facilities (concrete lined channels and box culverts etc) beginning on the North side of Interstate 80, near Lillard Street, running underneath Interstate 80 and thence easterly as depicted on Page 44 of the Living River Plan, Version 2.0, dated February 2010 and as the project description may be changed from time to time.

NTD Assets / North Truckee Drain Relocation Project Assets means all real and personal property acquired by the City of Sparks in connection with the planning and design of the North Truckee Drain Relocation Project, including, but not limited to (i) all real property including all improvements, fixtures, and appurtenances and interests in real property, including water rights, if any were conveyed to Sparks; (ii) all design documents including drawings, plans specifications, surveys, studies, and copies of all requests for proposal and responses and records relating to entering into contracts for the design and construction of the Project; (iii) all soils and environmental reports, all property inspection or condition reports; (iv) all contracts and contract rights including assignment of all contracts and all performance bonds, payment bonds, letters of credit or cash deposits or other security held as security for contracts, all unexpired warranties and warranty rights; (v) all construction property including all facilities and improvements constructed, all building materials, and supplies including orders, warehouse receipts, bills of lading or other similar documents for such materials and supplies; (vi) all general intangibles; and (vii) all records relating to the acquisition of property, design and construction of facilities including copies of all acquisition due diligence and escrow and relocation records.

Rate Resolution means a resolution enacted by the Authority Board to impose fees, rates and charges as contemplated by §6.01 of this Agreement.

Rescinding Ordinance means an ordinance to be adopted by Sparks rescinding the River Flood Protection Rate.

River Flood Protection Rate means a fee imposed on residences and commercial entities under Sparks Municipal Code 13.090.020 and 13.090.030 for the purpose of providing financing for the North Truckee River Drain Relocation Project. The fee was imposed by ordinance 2390 and 2391 in February of 2008, and has been collected as a part of the sewer fees collected from Sparks residents.

¶10.05.B Recitals

1. The North Truckee Drain Project is an approved part of the Truckee River Flood Management Project, and has been approved as a “TRAction Project” to be started before an agreement is entered into with USACE for cost sharing and construction of the overall Truckee River Flood Management Project. County has obtained “Section 104” authorization from the USACE that, subject to various conditions, the costs advanced for the design and construction of the NTD Project may qualify for possible credit under a potential Project Partnership Agreement.

2. As a joint development effort, County and Sparks entered in to an Interlocal Agreement in July of 2007 whereunder Sparks agreed to conduct feasibility study and rough design of the NTD Project, and County agreed to pay \$780,000 to reimburse Sparks. That agreement has been funded and completed.

3. In 2008, Sparks implemented the River Flood Protection Rate for the purpose of, among other things, financing the design and construction of the NTD Project. The design of the NTD Project is nearly completed and Sparks is prepared to issue bonds secured by the revenues of the River Flood Protection Rate to construct the NTD Project.

4. The NTD Project provides a regional benefit and can be built by the Authority and financed with regional rates and fees to be imposed and collected under the 2010 Cooperative Agreement, thus spreading the cost of the NTD Project to a wider base of persons who will be benefitted by it. Thus, in furtherance of the long term joint development effort, when the Authority imposes fees, rates and charges under §6.01 of this Agreement, Sparks desires to have the Authority take over and complete the financing and construction of the NTD Project, provided that Sparks receives assurances that the project will be promptly built.

5. As authorized by the Interlocal Cooperation Act (NRS 277.080 – 277.180), the parties desire to enter into this joint development agreement under NRS 277.180 to set forth the purposes, powers, rights, objectives and responsibilities of the parties in order to complete the design, construction, operation and maintenance of the NTD Project.

6. Under NRS 268.059 through NRS 268.063, Sparks may enter into joint development and cooperative agreements under NRS Chapter 277 to transfer and develop public property (e.g. the NTD Assets) for a public purpose without complying with normal requirements for appraisals and advertising for public bids. Under NRS 354.626 (2) (b) the Authority may enter into a binding long term cooperative agreement authorized under NRS Chapter 277 pending the appropriation of funds.

NOW THEREFORE, in consideration of and exchange for the mutual covenants and benefits contained herein, the parties agree as follows.

¶10.05.C Design of NTD Project and acquisition of land.

1. Pursuant to the “Interlocal Agreement (North Truckee Drain Design Project)” between the Authority and Sparks, Sparks shall complete the design of the NTD Project and prepare construction bid documents.

2. Sparks shall, to the extent funds are available under the River Flood Protection Rate, acquire all land and easements necessary to construct the NTD Project and shall relocate all owners and tenants as required by NRS Chapter 342.

¶10.05.D Rescission of River Flood Protection Rates.

1. Sparks and the Authority agree to cause the rescission of the River Flood Protection Rate as follows.

2. In preparing the rate design for the fees rates and charges to be established under §6.01 of this Agreement, Authority staff shall include a separate line item for the capital cost of completing the NTD Project, and shall include that cost in the fees, rates and charges.

3. Subject to the time requirements in ¶10.05.E, the Authority shall in its discretion fix a date to adopt the Rate Resolution enacting the fees, rates and charges. Sparks shall prepare the Rescission Ordinance rescinding the River Flood Protection Rate, and the parties shall coordinate the scheduling of first and second readings of the Rescission Ordinance such that the River Flood Protection Rate shall be rescinded before the effective date of the Rate Resolution.

4. The Authority shall promptly seek and diligently pursue judicial confirmation of the Rate Resolution once it and the Rescission Ordinance are enacted.

¶10.05.E Failure to enact Rate Resolution within 180 days.

If the Authority fails to enact the Rate Resolution within 180 days from the latest of the following dates, Sparks shall have the option to take over the NTD Project as provided in ¶10.05.H:

- i. The date that Sparks enacts those changes to its Development Code as provided in ¶4.02.B.2 of this Agreement; or
- ii. If the Authority is enjoined by a court from enacting the Rate Resolution, then the date that the injunction is lifted and the Authority is allowed to proceed with the Rate Resolution; or

- iii. If the Authority Board in its legislative discretion decides to delay enacting the Rate Resolution for any reason other than the failure of Reno or Washoe County to enact changes in their Development Codes in accordance with ¶4.02.B.2 above, then the date that the Authority Board decides to proceed with the Rate Resolution.

¶10.05.F Conveyance of NTD Assets.

1. When the fees, rates and charges have been judicially confirmed and the Authority is ready to issue Debt Instruments to finance the construction of the NTD Project, in consideration of the Authority's agreement to complete construction of the NTD Project, Sparks shall convey to the Authority all of the NTD Assets in Sparks' possession.

2. The conveyance to the Authority is AS IS without express or implied warranty, except warranty of title.

3. All funds transferred to the Authority by Sparks from the River Protection Rate shall be used exclusively for the NTD Project, and the Authority shall provide an accounting to Sparks.

¶10.05.G Construction, operation and maintenance of the NTD Project.

1. The Authority shall construct, own, operate and maintain the NTD Project when Sparks has (i) completed the design of the project, has prepared contract bid documents satisfactory to the Authority to use in soliciting bids in accordance with applicable law, (ii) acquired all the necessary land under ¶10.05.C above, and (iii) conveyed the NTD Assets to the Authority. The NTD Project may be constructed in phases consistent with available funding.

2. If the Authority fails to enter into a binding contract with the USACE or one or more contractors to build the NTD Project within 365 days from the completion of all the conditions listed in ¶10.05.G.1 next above, Sparks shall have the option to take over the construction, operation and maintenance of the NTD Project as provided in ¶10.05.H below.

¶10.05.H Sparks' take over of NTD Project.

1. If the Authority fails to enact the fees, rates and charges within the time frame set out in ¶10.05.E, or fails to enter into a contract to build the NTD Project within the time frame set out in ¶10.05.G.2 above, Sparks shall have the option to take over the NTD Project. Sparks must give written notice of its election to exercise the option within 180 days from such failure.

2. If Sparks timely gives notice of its election to take over the NTD Project, the Authority shall promptly:

- i. Convey all NTD Assets to Sparks without consideration;
- ii. Assign any and all contracts for construction and materials to Sparks; and
- iii. Take whatever actions allowed and authorized by any Debt Instrument issued by the Authority to cause an amount equal to the amount specified in ¶10.05.D.2 to be paid from the construction fund established pursuant to the Debt Instrument for the construction of the NTD Project as approved by Sparks.

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INTERLOCAL COOPERATIVE AGREEMENT
(Truckee River Flood Management Project)

Article 11 (RESERVED)

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INTERLOCAL COOPERATIVE AGREEMENT
(Truckee River Flood Management Project)

Article 12 GENERAL TERMS

§12.01 Term of Agreement

¶12.01.A Commencement. When this Agreement has been duly approved and executed by all the parties, and approved by the Attorney General of Nevada under NRS 277.140, it becomes effective as of the date indicated above.

¶12.01.B Duration. Unless earlier terminated by agreement of the parties, this Agreement shall be perpetual.

¶12.01.C Reopening. All parties to this Agreement hereby agree to reopen this Agreement on February 1, 2018 and to meet, review and negotiate in good faith all of its terms, provided, however, that the parties may not renegotiate any term or provision that would impair the Authority's ability to meet any of its obligations under any Debt Instrument.

§12.02 Termination of Agreement

¶12.02.A This Agreement may be partially or completely terminated only by an agreement of the parties which must be approved as provided in ¶3.05.B.

¶12.02.B A partial termination may occur if it does not affect the ability of the Authority to completely honor all of its obligations hereunder. Otherwise, the Authority must be dissolved under §3.10 above.

§12.03 Default, Notice and Right to Cure, Remedies.

¶12.03.A Default.

A default occurs when (i) a party repudiates, breaches or fails to perform any obligation, term or provision in this Agreement; (ii) an event required to occur does not occur by the time required due to the lack of diligence or fault of a party; (iii) any representation of a material fact expressed herein was false at the time it was made, or, if a continuing representation, becomes false as a result of a subsequent event or occurrence; (iv) any warranty made herein is breached at the time made or, if a continuing warranty, is breached as a result of a subsequent event or occurrence; (v) a party violates any law material and relevant to this Agreement; or (vi) any event otherwise described in this Agreement as a breach or default.

¶12.03.B. Notice and Right to Cure.

Unless otherwise specified in this Agreement, in the event of the default, any non-defaulting party shall provide written notice of such default and the specific action required to cure such default and the defaulting party shall have thirty (30) days from the date that the notice is deemed given to cure the default.

¶12.03.C Remedies.

1. If the event of a default is suffered or caused by any party and not cured within the period of time specified, any non-defaulting party may, subject to any specific provision regarding remedies herein, (i) suspend any counter-performance due hereunder until the default is cured; (ii) bring an action for damages or equitable relief including, without limitation (a) an action for specific performance of the defaulting party's obligations hereunder, (b) the appointment of a receiver to take possession of Gross Revenues and apply them consistent with this Agreement, and/or (c) the partial or complete termination of this Agreement; or (iii) pursue any other remedy specifically provided in this Agreement.

2. All remedies stated in this Agreement are cumulative with each other and with any remedy afforded in law or equity. The election of any remedy does not constitute a waiver of any other remedy.

§12.04 Waivers.

Any forbearance, inaction, or failure to promptly pursue any remedy (whether intentional or negligent) shall not be deemed a waiver of any default or remedy. Waivers must be expressed in writing signed by the waiving party, and a waiver of a default is limited to the specific default identified in the written waiver and does not constitute a course of dealing or implication that similar defaults will be waived in the future.

§12.05 Representations and Warranties.

Each Member represents and warrants to each other and to the Authority that (i) entering into this Agreement does not violate any contract, court order, administrative order or other undertaking binding on such party; (ii) it has complete authority to enter into this Agreement without obtaining any court order or permission or agreement of another party; (iii) there are no suits, other proceedings or investigations pending or threatened against it that it reasonably believes would impair its delegation of powers hereunder or its ability to perform its duties and obligations hereunder; and (iv) that the Member has all the powers delegated to the Authority hereunder.

§12.06 General covenants of all parties.

¶12.06.A Each party covenants to all of the other parties as follows.

¶12.06.B Ongoing disclosures

1. To promptly notify the other party of any facts that would cause any of the representations contained in the Agreement to be untrue during the term of this Agreement.

2. To promptly notify the other party of any facts or circumstance that would impair the obligated party's ability to perform its obligations hereunder.

¶12.06.D Compliance with law. To comply with all applicable ordinances, statutes, regulations and other laws with respect to its general operations and the performance of all obligations and duties under this Agreement

§12.07 *Assignment and Delegation.*

Except as otherwise specifically provided elsewhere in this Agreement, no party may assign any right or delegate any obligation under this Agreement without the written consent of all the other parties obtained in advance of the assignment or delegation. Consent is subject to the sole and absolute discretion of the consenting party.

§12.08 *Binding Effect; No Third Party Beneficiary.*

This Agreement shall be binding on and runs to the benefit of the parties, their respective successors and any assignees or delegates if the assignment or delegation is permitted. Unless otherwise specifically identified in this Agreement, there are no third party beneficiaries intended by this Agreement and no third parties have any standing to enforce any of the provisions of this Agreement.

§12.09 *Standards for Approvals.*

¶12.09.A Unless otherwise specified (such as with the words "sole discretion") wherever this Agreement requires the approval of a party, or any of a party's officers, agents or employees, such approval shall not be unreasonably withheld, delayed or conditioned.

¶12.09.B The governing bodies of the Members and the Authority are governmental bodies whose decisions are legislative functions that may be subject to public hearings and input, and, except as otherwise provided herein, shall have sole and absolute discretion to approve or disapprove any matter submitted to them provided, however, that decisions are not procured by fraud or bribery, or, with respect to the County, are arbitrary, capricious or an abuse of discretion.

§12.10 *Notices; When Deemed Sufficiently Given*

¶12.10.A Unless otherwise provided herein, formal notices, demands and

communications between the parties must be in writing and must be sent via certified or registered mail, return receipt requested, or by overnight courier to the addresses stated in Article 1 above, or to any address or number subsequently communicated to the sending party in writing.

¶12.10.B In addition, notices shall be given to the following parties, although failure to do so shall not make the service under ¶11.10.A defective:

For County: Washoe County District Attorney
and Authority P.O. Box 30083
Reno, Nevada 89520-3083
Attn: Civil Division

For Reno: Reno City Attorney
One East First Street, Third Floor
Reno, Nevada 89501

For Sparks: Sparks City Attorney.
431 Prater Way
Sparks, Nevada 89436

¶12.10.B If notice is sent by registered or certified mail to the correct address, postage prepaid, it will be deemed sufficiently given when actually received by the addressee or three business days after it is received by the U.S. Post Office as indicated on the receipt, whichever is earlier.

¶12.10.C If notice is sent by courier, or overnight delivery service (e.g., Federal Express, UPS Overnight, U.S. Postal Priority Mail), it will be deemed sufficiently given when delivered to the address as indicated in the records of the courier or service.

§12.11 Further Acts and Assurances.

¶12.11.A Each party agrees to take all necessary action to enter into, execute and deliver any and all written documents necessary to carry out the terms of this Agreement, and for the development of the Flood Management Project in accordance with the terms of this Agreement.

§12.12 Attorney's Fees & Costs

If any party hereto institutes any action or proceeding (including arbitration, if authorized) against the other or others arising out of or relating to this Agreement, attorney's fees and costs may be awarded to the prevailing party, as determined by or otherwise allocated at the discretion of the Court (or arbitrator).

§12.13 *Timing Provisions.*

Time is of the essence in the performance of this Agreement. Unless otherwise specified, the term “days” means calendar days. If a deadline falls on a weekend or holiday then performance is due on the first business day of the recipient thereafter. Unless otherwise specified, performance is due by the later of 5 p.m. Reno, Nevada time or close of business of the recipient on the day it is due.

§12.14 *Applicable Law*

This Agreement shall be construed under and governed by the laws of the State of Nevada.

§12.15 *Non-Liability of Individual Officers or Employees of Parties*

No official or employee of any party to this Agreement shall be personally liable to any other party or any successor in interest, in the event of any default or breach by the party or for any amount which may become due to any other party or its successor, or as a result of any representation (except any representation regarding the authority to execute this Agreement), warranty or obligation under the terms of this Agreement.

§12.16 *Enforceability; Severability; No Merger with Deed.*

¶12.16.A Each term and provision of this Agreement (including the conferring of functions and delegation of powers) shall be valid and shall be enforced to the extent permitted by law, taking into account permissible waivers or provisions which may be upon agreement of the parties.

¶12.16.B If any term or provision of this Agreement or the application thereof shall be deemed by a court of competent jurisdiction to be in violation of law or public policy, then it shall be deemed modified, ipso facto, to bring it within the limits of validity or enforceability, but if it cannot be so modified, then it shall be excised from this Agreement. In any event, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is invalid or unenforceable, shall not be affected.

¶12.16.C To prevent windfall or unintended consideration, if any term or provision of this Agreement is deemed invalid or unenforceable or enforceable only to a limited extent, the parties agree to negotiate in good faith to adjust any counter-performance, condition, or corresponding consideration.

¶12.16.D This Agreement does not merge with any deed or other conveyance of any property.

§12.17 Construction of Agreement.

¶12.17.A Titles and headlines of this agreement are intended for editorial convenience and are not to be construed as a part of this agreement.

¶12.17.B The word “include” or “including” is not intended as a limitation and shall be construed to include the words “but not limited to.”

¶12.17.C Any reference to the masculine genders includes, where appropriate in the context, the feminine gender. Any term in the singular includes, where appropriate in the context, the plural.

¶12.17.D The Parties hereto were each advised by counsel in drafting and negotiating this agreement, and each Party contributed to its contents. No presumptions against or in favor of any party are appropriate based on who drafted this Agreement or any provision herein.

¶12.17.E Any reference to another document (statute, resolution, plan, contract etc) includes the reference to all amendments thereto.

¶12.17.F Any reference to a numbered provision in this Agreement or any other reference which is incorrect shall be deemed to refer to the appropriate provision.

§12.18 Modifications and Amendments.

This agreement may be modified or amended only as approved in ¶3.05.B.

§12.19 Authority to Execute and Implement.

Each person who signs this Agreement below warrants and represents that he or she has the actual authority to bind the principal for which he or she signs and that his or her signature has the effect of binding the principal.

§12.20 Entire Agreement; Attachments; Counterparts; Recording

¶12.20.A This Agreement (together with attachments and documents incorporated by reference) integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

¶12.20.B All attachments hereto and/or referred to in this Agreement are incorporated herein as though set forth in full.

¶12.20.C This Agreement may be executed in counterparts and is deemed duly

executed when original signature pages of all parties are executed and delivered.

¶12.20.D This Agreement shall be recorded in the official records of Washoe County and with the Nevada Secretary of State pursuant to NRS 277.140.

§12.21 Termination of 2005 Cooperative Agreement

Each party to this Agreement hereby discharges and releases each other party from all duties and obligations under the 2005 Cooperative Agreement arising after the effective date of this Agreement and consents to the termination of the 2005 Cooperative Agreement with the intent that it be replaced with this Agreement.

//////////////////////////////////////END OF AGREEMENT//////////////////////////////////////

Interlocal Cooperative Agreement
(Truckee River Flood Management Project)
Counterpart Signature Page

APPROVED
Per NRS 277.140

CATHERINE CORTEZ MASTO
Attorney General

By _____ Date _____

Interlocal Cooperative Agreement
(Truckee River Flood Management Project)
Counterpart Signature Page

CITY OF RENO
A municipal corporation

By _____
Robert Cashell, Mayor

Date _____

Attest:

By _____
Lynette Jones, City Clerk

Date _____

STATE OF NEVADA)
) Acknowledgement in Representative Capacity
COUNTY OF WASHOE) (NRS 240.1665)

This Instrument was acknowledged before me on _____
by ROBERT CASHELL as Mayor and LYNETTE JONES as City Clerk of the City of
Reno, Nevada

Notary Public

Approved as to form
JOHN KADLIC
City Attorney

By _____

Interlocal Cooperative Agreement
(Truckee River Flood Management Project)
Counterpart Signature Page

CITY OF SPARKS
A municipal corporation

By _____
Geno Martini, Mayor

Date _____

Attest:

By _____
Linda Patterson, City Clerk

Date _____

STATE OF NEVADA)
) Acknowledgement in Representative Capacity
COUNTY OF WASHOE) (NRS 240.1665)

This Instrument was acknowledged before me on _____
by GENO MARTINI as Mayor and LINDA PATTERSON as City Clerk of the City of
Sparks, Nevada.

Notary Public

Approved as to form
CHESTER ADAMS
City Attorney

By _____

